

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WELBY GARDENS,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 42036</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 7, 2009 Karen E. Hart and Debra A. Baumbach presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Jennifer M. Wascak, Esq. Petitioner is protesting the actual value of the subject property for tax year 2003.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**2761 East 74th Avenue
6700 North Washington
(Adams County Schedule Nos. R0071176, R0071177 & R0115906;
Parcel Nos. 0171936304001, 0171936304002 & 0182502304011)**

The subject property is comprised of a collection of wholesale greenhouses and garden center located in Denver. The subject is primarily a wholesale greenhouse bedding plant operation, with a limited portion of retail and floral shop. Included are greenhouses, utility and support buildings, boiler room, and a garage. The total site area is 37.09 acres.

Petitioner’s witness, Mr. Ronald C. Sandstrom, presented the following indication of value:

Cost Approach: \$1,841,514.00

Petitioner considered the cost approach to be the most suitable method to value the subject property; no reliance was placed on the income or market approach.

Mr. Sandstrom relied on Marshall & Swift Valuation Service to determine individual cost estimates for each of the structures detailed in Petitioner's Exhibit A. Marshall & Swift's cost manual was improved to include various classifications in the quality and construction along with differences in roofing types.

Adjustments were applied for height, perimeter measurement, concrete area, current cost multiplier, and local multiplier. Marshall & Swift's cost table depreciation schedule for all farm and residential was used for calculating depreciation. To arrive at a percentage of depreciation, a typical life expectancy in years was compared to the effective age. A typical life expectancy of 20 to 25 years was used and the rate of depreciation ranged from 0.03 to 0.80. The rate differed based on greenhouse construction, concrete area, roofing type, and other features included in the detailed cost estimate. Petitioner's concluded value for the improvements included \$1,335.00 for a material storage shed located on Parcel No. 0171936300069 which is not part of this appeal.

The greenhouse structures were primarily constructed of a steel or pipe frame with a polyethylene roof, consisting of a double layer of poly plastic allowing a vapor barrier. This type of roof has a life expectancy of about 2 to 3 years before needing complete roof replacement. Therefore, Petitioner contends a higher rate of depreciation was required for these structures. The same cost methodology and depreciation was used in determining the value for the retail center and parking area.

Petitioner used a land area of 37.193 acres. The agricultural land consisting of 10.00 acres was valued at \$600.00 per acre. The other agricultural land consisting of 26.493 acres was valued at \$20,000.00 per acre. The retail area of 0.7 acres was valued at \$2.00 per square foot for a total land value of \$596,840.00. Petitioner relied on five comparable sales to value the other agricultural land. All of the sales were outside the five-year extended base period; therefore the Board gives no consideration to those sales. Petitioner's total land acreage included Parcel No. 0171936300069, consisting of 0.103 acres of other agricultural land, which is not part of this appeal.

Petitioner is requesting an actual value of \$1,841,514.00 for the subject property for tax year 2003.

Respondent's witness, Mr. John Schaul, a Registered Appraiser with the Adams County Assessor's Office, presented a value of \$2,278,955.00 for the subject property. The Board believes the value presented by Respondent covers only Parcel Nos. 0171936304001 and 0171936304002. It is apparent from Respondent's Exhibit that Parcel No. 0182502304011 was omitted from the Valuation Summary Report. Decisions from the Adams County Board of Equalization, dated August 4, 2003 were attached to the petition received by the Board on September 3, 2003, including a decision on Parcel No. 0182502304011.

Mr. Schaul presented the following indications of value:

Cost Approach:	\$2,278,955.00
Market Approach:	\$2,238,851.00

Mr. Schaul presented both the cost approach and market approach and did not place any reliance on the income approach.

Mr. Schaul used Marshall & Swift Valuation Service cost tables to determine the replacement costs of the improvements. The costs were based on average costs per square foot for commercial greenhouses. The improvements were primarily constructed between the years of 1973 through 1994. Adjustments were applied for perimeter measurements, local multiplier, current cost multiplier, and for polyethylene roof. An additional adjustment was also made for amateur workmanship meaning work done by farm or ranch hands. Respondent did not include Parcel No. 0182502304011 in the Valuation Summary Report; therefore approximately 123,872 square feet of greenhouse improvements were not included in Respondent's value conclusion for the improvements.

Respondent also adjusted for all forms of depreciation based on the Life Expectancy Guidelines & Depreciation of Commercial Property. An effective age was applied to all improvements, based on comparing similar structures with respect to condition, utility, and any deferred maintenance. There is a high degree of maintenance associated with polyethylene roofs. The life span is approximately 3 years before requiring complete replacement. Albeit this type of roofing needs replacing often, it is considered highly desirable and cost effective. The polyethylene material is inflated with an air pocket creating an insulation barrier and does not break during a hail storm like glass roofs. Respondent contends there is no lack of functional utility associated with the steel frames or sidewalls and a lesser degree of depreciation was applied.

Mr. Schaul presented a total land value of \$427,100.00 for 32.663 acres. He valued 10 acres of land classified as Irrigated Class II agricultural land at \$430.00 per acre, and 21.095 acres of other agricultural at \$20,000.00 per acre. The remaining 1.568 acres previously listed as retail land was valued as other agricultural at \$20,000.00 per acre. Respondent did not include the 4.421 acres of other agricultural land on Parcel No. 0182502304011 in the land value conclusion.

Respondent presented four comparable sales, located in both Adams and Jefferson counties representing agri-business before and after the sale. Comparable Sales 5 and 6 at the time of sale were irrigated agricultural land; however, after the purchase became agri-businesses. The Board gives no consideration to Comparable Sales 2, 4, 5, and 6 because they were all outside the extended five-year base period.

Respondent adjusted for differences in an attempt to extract a residual land value and improvement value. The indicated improvement value on Comparables 1 and 2 were in line with Respondent's cost approach calculation; however the Board gives no consideration to Comparable 2 as it was outside the extended five-year base period. The improvement value per square foot was then compared with Marshall & Swift Valuation manual to determine what is attributed to deferred

maintenance. Respondent contends this methodology was a good test of reasonableness in comparing the costs.

Respondent assigned an actual value of \$3,849,570.00 to the subject property for tax year 2003. Respondent is recommending a reduction in value to \$2,278,955.00 for tax year 2003; however the Board believes this value is only for Parcel Nos. 0171936304001 and 0171936304002.

Petitioner presented sufficient probative evidence and testimony to prove that that subject property was incorrectly valued for tax year 2003.

Both parties presented and relied on the cost approach as the most reliable methodology to value the subject property. Petitioner relied on Marshall & Swift Valuation Service to derive the costs and determine depreciation. Respondent relied on Marshall & Swift Valuation Service to derive costs, and relied on Life Expectancy Guidelines & Depreciation of Commercial Property to determine depreciation.

The Board concludes that the total land size for the three parcels included in this appeal is 37.09 acres consisting of 10.00 acres of agricultural land and 27.09 acres of other agricultural land. Both parties agree that the other agricultural land should be valued at \$20,000.00 per acre. The Board agrees. Respondent valued the agricultural land at \$430.00 per acre, and Petitioner at \$600.00 per acre. The Board agrees with Respondent and finds that the agricultural land should be valued at \$430.00 per acre. Therefore the Board concludes to a total land value of \$546,100.00.

The actual costs estimates and adjustments from both parties were similar. The major difference was the rate of depreciation and how it was applied. The Board was not convinced Respondent allowed for adequate depreciation but did attempt to address the roofing structures separately. Subsequently, Petitioner did not apply the depreciation separately for the roofing structures, reflecting higher rates of depreciation.

Further, Respondent did not include within the appraisal report the depreciation schedule used to determine depreciation percentages. However, based upon testimony the physical age-life method was utilized and depreciation for roofing was separately addressed. Petitioner also relied on the physical age-life method, however assumed the depreciation was linear over the life span of the entire structure not just the roof, decreasing the value at a constant rate. Thus, indicating a higher rate of depreciation to the entire structure.

There were inconsistencies in the testimony and evidence presented by both parties and neither party presented the breakdown method to analyze each cause of depreciation separately. This method would best address the polyethylene roof covering the greenhouses as well as other improvements considered to have incurable physical deterioration of short-lived components. The Board was convinced there is a high degree of depreciation as a result of the quality of materials used in the construction of greenhouses.

Therefore, the Board is convinced a reduction is warranted. The Board relies on Petitioner's cost approach and replacement cost new values for improvements, and reduces the depreciation applied by Petitioner. The Board did not include the improvements located on Parcel No.

0171936300069 as that parcel is not part of this appeal. The Board concludes to a value of \$1,416,319.00 for the improvements.

The Board concludes to a total value of \$1,962,419.00 for the subject property for tax year 2003.

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property to \$1,962,419.00.

The Adams County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the Respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 16th day of July 2009.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Debra A. Baumbach
Debra A. Baumbach

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Heather Flannery
Heather Flannery

