

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 44529 &
44531**

Petitioner:

WELBY GARDENS,

v.

Respondent:

ADAMS COUNTY BOARD OF COMMISSIONERS.

ORDER

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 requesting an abatement/refund of taxes on the subject property for tax years 2001 and 2002.

The Board consolidated Dockets Nos. 44529 and 44531.

PROPERTY DESCRIPTION:

Subject property is described as follows:

Docket No. 44529

**6700 North Washington
(Adams County Parcel No. 0182502304011)**

Docket No. 44531

**2761 East 74th Avenue
(Adams County Parcel Nos. 0171936300018, 0171936300069,
0171936304001, & 0171936304002)**

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. Docket No. 44531 contains 32.872 acres and Docket No. 44529 contains 4.421 acres.

Petitioner's witness, Mr. Ronald C. Sandstrom, presented the following indications of value:

Docket No. 44529

Cost Approach: \$156,190.00 tax year 2001
 \$291,529.00 tax year 2002

Docket No. 44531

Cost Approach: \$1,560,881.00 tax years 2001 & 2002

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 Exhibits B and E. Marshall & Swift's cost manual was improved to include various classifications in the quality and construction along with differences in roofing types.

Regarding Docket No. 44531, 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 30 years was used and the rate of depreciation ranged from 0.04 to 0.80. The rate differed based on greenhouse construction, concrete area, roofing type, and other features included in the detailed cost estimate.

Regarding, Docket No. 44529, the property is located approximately 1.5 miles away from the subject property located at 2761 East 74th Avenue, and was acquired for additional growing space. The improvements consist of 123,872 square feet, including a greenhouse addition in 2002. Adjustments were made for height, perimeter measurement, concrete area, current cost multiplier, and local multiplier. A life expectancy of 20 years was used and the rate of depreciation was 0.80 for all improvements, except no depreciation was applied to the greenhouse that was added in 2002.

The greenhouse structures were primarily constructed of a 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 32.872 acres for Docket No. 44531. The agricultural land consisting of 10.000 acres was valued at \$596.00 per acre. The retail area of 0.7 acres was valued at \$2.00 per square foot. The remaining other agricultural land was valued at \$20,000.00 per acre for a total value of \$510,210.00. Docket No. 44529 consists of approximately 4.421 acres of other agricultural land and was valued at \$20,000.00 per acre for a total value of \$88,420.00. Petitioner

relied on five comparable land sales to value the other agricultural land. Comparable Sales 1, 4, and 5 were outside the five-year extended base period; therefore the Board gives no consideration to those sales.

Petitioner is requesting an actual value of \$1,560,881.00 for Docket No. 44531 for tax years 2001 and 2002. For Docket No. 44529 Petitioner is requesting a value of \$156,190.00 for tax year 2001 and \$291,529.00 for tax year 2002.

Respondent's witness, Mr. John Schaul, a Registered Appraiser with the Adams County Assessor's Office, presented the following indications of value:

Docket No. 44529
Cost Approach: \$656,900.00 tax year 2001
\$905,650.00 tax year 2002

Docket No. 44531
Cost Approach: \$2,278,955.00 tax years 2001 & 2002
Market Approach: \$2,238,851.00 tax years 2001 & 2002

The Board believes the value presented by Respondent for Docket No. 44531 covers only Parcel Nos. 0171936304001 and 0171936304002. It is apparent from Respondent's Exhibit that Parcel Nos. 0171936300018 and 0171936300069 were omitted from the Valuation Summary Report. The decision from the Adams County Board of Commissioners, dated September 30, 2004, was attached to the petition received by the Board on November 1, 2004, which included Parcel Nos. 0171936300018 and 0171936300069.

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. There was construction of a new greenhouse in 2002 and because of the age, limited depreciation was applied. Respondent did not include Parcel Nos. 0171936300018 and 0171936300069 in the Valuation Summary Report for Docket No. 44531; therefore approximately 2,460 square feet of improvements located on Parcel No. 0171936300069 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.

Respondent presented a total land value of \$427,100.00 for 32.663 acres in Docket No. 44531. Respondent valued 10 acres of land classified as Irrigated Class II agricultural land at \$430.00 per acre and 21.095 acres as other agricultural at \$20,000.00 per acre. The remaining 1.568 acres previously listed as retail land was valued as other agricultural land at \$20,000.00 per acre. Respondent did not include Parcel Nos. 0171936300018 and 0171936300069 in the Valuation Summary Report; therefore approximately 0.203 acres of other agricultural land were not included in Respondent's value conclusion for the land.

Regarding Docket No. 44529, the land area consisting of 4.42 acres and was valued at \$75,000.00 per acre based on the residual land value of Respondent's Comparable Sales after adjustments and extraction of the improvements.

Respondent presented four comparable sales in both Docket No. 44529 and Docket No. 44531, located in Adams and Jefferson counties, representing agri-business before and after the sale. Sale 1 for both Dockets is the acquisition of additional growing space by Petitioner. Sales 2, 3, and 4 for Docket No. 44531, Sales 4 and 2 for Docket No. 44529, were agri-businesses prior to the sale and after. The Board did not give any consideration to Sale 2 for Docket No. 44531, Sale 4 for Docket No. 44529, as it was 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 Comparable Sales 1 and 2 for Docket No. 44531, were in line with the cost approach calculation, however the Board gives no consideration to Sale 2 for Docket No. 44531 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 and significant weight was placed on this method.

Respondent assigned an actual value for Docket No. 44531 of \$3,137,510.00 for tax years 2001 and 2002 but is recommending a reduction to \$2,278,955.00; however the Board believes this recommended value is only for Parcel Nos. 0171936304001 and 0171936304002. For Docket No. 44529 Respondent assigned an actual value of \$656,900.00 for tax year 2001 and \$905,650.00 for tax year 2002.

Petitioner presented sufficient probative evidence and testimony to prove that that subject property was incorrectly valued for tax years 2001 and 2002.

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. In Docket No. 44529 significant weight for the land value was also placed on the market approach.

The Board concludes that the total land size for the parcel in Docket No. 44529 is 4.421 acres of other agricultural land. Respondent valued the land at \$75,000.00 per acre, and Petitioner at \$20,000.00 per acre. The Board agrees with Petitioner and finds that the other agricultural land under Docket No. 44529 should be valued at \$20,000.00 per acre. The Board was not convinced by the methodology used by Respondent to arrive at a land value; this value was not supported by the sales. Therefore the Board concludes to a total land value of \$88,420.00.

The Board concludes that the total land size for the parcels included in Docket No. 44531 is 32.872 acres consisting of 10.00 acres of agricultural land and 22.872 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 \$461,740.00.

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 higher degree of depreciation as a result of the quality of materials used in the construction of greenhouses.

The Board is convinced a reduction is warranted. The Board relies on Petitioner's cost methodology and replacement cost new values, and applies a lesser degree of depreciation.

The Board concluded to the following values:

	Docket No. 44529		Docket No. 44531
	Tax year 2001	Tax year 2002	Tax years 2001 & 2002
Improvements	\$ 101,657.00	\$ 236,996.00	\$ 1,125,227.00
Land	<u>\$ 88,420.00</u>	<u>\$ 88,420.00</u>	<u>\$ 461,740.00</u>
Total	\$ 190,077.00	\$ 325,416.00	\$ 1,586,967.00

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property in Docket No. 44529 to \$190,077.00.

Respondent is ordered to reduce the 2002 actual value of the subject property in Docket No. 44529 to \$325,416.00.

Respondent is ordered to reduce the 2001 and 2002 actual value of the subject property in Docket No. 44531 to \$1,586,967.00.

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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(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

