

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>LDB LLC AND DAN BUSCH INC.,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ADAMS COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 44577</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 6, 2009, Karen E. Hart and Debra A. Baumbach presiding. Petitioners were represented by William A. McLain, Esq. Respondent was represented by Jennifer M. Wascak Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax years 2001 and 2002.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**1661 East 77<sup>th</sup> Avenue**  
**(Adams County Schedule Nos. 0171935100032 & 0171935100056)**

The subject property consists of a wholesale greenhouse operation including greenhouses, support buildings, and an office. The site area consists of 9.999 acres.

Petitioners' witness, Mr. Ronald C. Sandstrom, presented the following indication of value:

Cost Approach:           \$720,380.00

Mr. Sandstrom testified that the subject property consists of six greenhouse structures and three service buildings consisting of 246,555 square feet with approximately 16,026 square feet of concrete area. The structures vary in quality and condition and were all valued the same way except greenhouses 4 and 5 which have polyethylene roofing and greenhouse 6 which is a "Dutch"

greenhouse with glass and steel frame construction. There is a discrepancy in the reported square footage between the parties.

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

The various improvements were constructed between the years of 1960 to 1985 with steel frame exteriors, glass and fiberglass walls. The roofs are constructed of glass, fiberglass, and polyethylene. Greenhouses 4 and 5 are partially constructed with polyethylene roofing. This type of roof consists of a double layer of poly plastic allowing a vapor barrier. The life expectancy is approximately 2-3 years before needing complete roof replacement. Therefore, a higher rate of depreciation was required.

The structures are warmed with natural gas boilers, cooled by large fans and water curtains, and irrigated by a drip system.

Petitioners applied adjustments for height, perimeter measurement, current cost multiplier, local multiplier, and polyethylene roofing. 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 35 years was used and the rate of depreciation ranged from 0.29 to 0.80. The rate differed based on greenhouse construction, concrete, roofing type, and other features included in the detailed cost estimate.

Petitioners used a land area of 9.999 acres and valued it at \$20,000 per acre for an indicated land value of \$200,000.00 rounded. Petitioners presented five comparable land sales. Sales 1, 4, and 5 were outside the five-year extended base period. Therefore, the Board gives no consideration to those sales.

Petitioners are requesting an actual value of \$720,380.00 for the subject property for tax years 2001 and 2002.

Respondent's witness, Mr. John Schaul, a Registered Appraiser with the Adams County Assessor's Office, presented a value of \$1,255,660.00 for the subject property. Mr. Schaul presented the following indications of value:

Cost approach:	\$1,255,660.00
Market Approach:	\$1,176,162.00

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

Mr. Schaul testified he does not agree with Petitioners' reported square footage and cost calculations from Marshall & Swift Valuation Service. In Petitioners' original Restricted Report, it appeared Petitioners applied the calculator method to the base costs of the greenhouses, and when applying local multipliers the segregated cost method was applied. They are two different cost methodologies and one methodology should be followed through the whole process to ensure better reliability.

Respondent relied on Marshall & Swift Valuation Service cost table to determine the replacement costs of the improvements. The improvements were rated as average to good quality and condition, and were constructed between the years of 1962 to 1985. Respondent reported the total square footage of the improvements as 232,452. The general construction of the greenhouses includes concrete footings, steel and pipe frame bearing walls, and steel joists supporting frames with both gable and bow string trusses. The roofs are constructed of fiberglass, glass, and polyethylene. The heat is provided by natural gas boilers.

Respondent's costs were based on average costs per square foot for commercial greenhouses using the calculator method. Adjustments were applied for perimeter measurements, local multiplier, current cost multiplier, and for polyethylene roof. Included are also several service buildings constructed of wood frame and asphalt roofing. Service building 1 consists of part office space with the rear section used as a warehouse. Service building 2 is larger with a metal frame, steel panel construction built in 1985. Both buildings were combined in the cost analysis.

Respondent calculated an effective age based on determining market depreciation through the sales contained in the market approach. This was then applied to the straight-line depreciation schedule in Marshall & Swift Valuation Service.

Mr. Schaul valued the land component at \$20,000.00 per acre based on both the Busch and Welby Gardens' purchases of additional land.

In Respondent's market approach four comparable sales were presented, located in both Adams and Jefferson counties representing agri-business sales before and after the sale. Sale 1 is the acquisition of additional growing space by Welby Garden Company, and Sales 2, 3, and 4 were agri-businesses prior to and after the sale. The Board does not place any weight on Sale 2 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. Respondent also accounted for the Denver Water license tap on Sale 1. The improvement value per square foot was then compared with Marshall & Swift Valuation manual.

Respondent assigned an actual value of \$1,242,430.00 to the subject property for tax years 2001 and 2002.

Petitioners 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. The Board agrees.

Both parties presented a land value of \$20,000.00 an acre. The Board agrees and concludes to a total land value for the subject property of \$200,000.00

The actual costs estimates and adjustments from both parties were similar and both parties relied on Marshall & Swift Valuation Service. The major difference was in calculating the effective age, the rate of depreciation and how it was applied to the improvements, and the reported square footage of the improvements.

The Board is not convinced Respondent allowed for adequate depreciation. Respondent valued several of the structures together, not allowing for differences. The Board recognizes that determining market depreciation through the comparable sales is an appropriate methodology. However, the Board is not convinced there was sufficient data to determine the variables affecting the sales to derive a supportable effective age.

Petitioners 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 is convinced there is a high degree of depreciation due to the quality of materials used in the construction of greenhouses.

Therefore, the Board is convinced a reduction is warranted. While the Board agrees with Respondent that the overall utility of the improvements may not be affected, there is a higher degree of depreciation associated with the cost of maintaining greenhouses and any updating of the structures to bring them up to current industry standards. The Board relies on Petitioners' cost methodology, reported square footage, improvement calculations, and replacement cost new values and reduces the depreciation applied.

The Board concludes to a total actual value of \$812,562.00 for the subject property for tax years 2001 and 2002.

**ORDER:**

Respondent is ordered to reduce the 2001 and 2002 actual value assigned to the subject property to \$812,562.00.

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 16<sup>th</sup> 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.

*HA flj*

Heather Flannery

