BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **MARTIN MARIETTA CORPORATION N/K/A/ LOCKHEED MARTIN CORPORATION,** v. Respondent: **JEFFERSON COUNTY BOARD OF EQUALIZATION.**	**Docket No.: 49159 & 51269**
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on February 17, 18, 19, 22, 23 and 24, 2010, Karen E. Hart, Lyle D. Hansen and Sondra W. Mercier presiding. Petitioner was represented by Thomas E. Downey, Jr., Esq. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2007 and 2008 actual value of the subject property.

The Board viewed the subject property on February 11, 2010.

PROPERTY DESCRIPTION:

Subject property is described as follows:

12257 South Wadsworth Boulevard, Littleton, Colorado
(Jefferson County Schedule No. 044914)

Petitioner indicated a total above ground square footage of 3,151,553 plus 176,448 square feet of basement area. The property includes office, manufacturing, lab and warehouse space in addition to areas that are considered “common” to the campus including cafeteria, gift shop and guard house. The buildings were completed between 1955 and 2000. The site is 3,741 acres and includes campus area as well as steep foothills and undeveloped open space. Robinson Brick Company has a mining lease for a total of 287.619 acres of which a majority is located on the subject site. The subject suffers from environmental contamination; however, the parties stipulated to a 15% deduction from value for contamination and associated contamination factors.

Petitioner's witness, Mr. Marcus B. Scott, MAI, presented the following indicators of value (prior to taking the 15% deduction for contamination):

Cost:	$86,000,000.00
Market:	$77,100,000.00 to $78,600,000.00
Income:	Not applied

Petitioner presented a cost approach to derive a market-adjusted cost value for the subject property of $86,000,000.00.

Mr. Scott presented seven comparable land sales for comparison with the subject as a 3,741 acre site. The sales varied in sales price from $2,009.00 to $13,681.00 per acre and in size from 730.9 to 4,480.0 acres. Sales were compared to the subject for location, zoning, access, topography, size, property rights conveyed, terms of sale, conditions of sale, date of sale and physical characteristics. Mr. Scott ranked the sales on a qualitative basis, concluding to a value of $5,500.00 per acre indicating a total land value of $20,575,500.00 for the 3,741 acre site.

As further support for the subject's land value, Petitioner contends that the subject site has three distinct areas that Petitioner designated as primary support site, passive open space and active open space. Mr. Scott provided additional comparable sales to determine an allocated value for each of the designated areas. Several of Petitioner's sales were excluded because their date of sale was beyond the base period. Petitioner attributed 591 acres to the primary support site based on information from the Assessor's Office. Mr. Scott allocated a value of $14,775,000.00 to the primary support site at $25,000.00 per acre. Petitioner allocated 550 acres as active open space with a contributory value of $2,750,000.00 based on a unit value of $5,000.00 per acre. Passive open space of 2,100 acres, which includes the western portion of the site, was valued at $3,150,000.00 equal to $1,500.00 per acre. Mr. Scott concluded that 500 acres of the subject site was impacted by the lease to Robinson Brick Company, valuing that portion at $1,250,000.00 equal to $2,500.00 per acre. Using this analysis, Petitioner provided an indicated land value of $21,925,000.00.

Petitioner reconciled the two approaches to conclude to a land value of $21,000,000.00, attributing $6,225,000.00 as the contributory value of excess land to be used in the sales comparison approach.

Mr. Scott estimated replacement cost new for the buildings and site improvements using the *Marshall & Swift/Boeckh* BVS Commercial software program. Mr. Scott relied on square footages provided by Petitioner for each building, applied the *Marshall* data based on the applicable occupancy class, with adjustments made for story height, type and quality of interior finish and percentage of use for office, warehouse, lab or manufacturing. The total estimated replacement cost new for building and site improvements was $313,900,000.00, rounded.

Petitioner contends that the property suffers from three forms of depreciation including physical deterioration, functional obsolescence and external obsolescence. Petitioner's witness relied on the BVS software program to calculate physical deterioration, which applies a modified age/life method giving consideration to the type of structure, occupancy, construction quality, age and overall condition.

Mr. Scott concluded functional depreciation for atypical high bay space in 14 buildings totaling 258,088 square feet. The adjustment was based on the differential between the costs for typical production laboratory space blended with light manufacturing at typical ceiling heights and the cost of high bay space, weighted, for an adjustment of $69.80 per square foot.

Petitioner also contends that the building suffers from inefficiency due to a large amount of campus common area, building common area and floor common area totaling 28%. Petitioner contends that areas such as the café, garage, firehouse and boiler house are atypical compared to other office and industrial properties resulting in additional functional obsolescence. Mr. Scott concluded to a deduction of 7.5% applied to the gross building area replacement cost new as a reflection of functional obsolescence due to above average common area.

Petitioner contends that due to the large size of the subject campus, it suffers from external obsolescence. Mr. Scott calculated external obsolescence using eight comparable sales that occurred within the base period, which indicated external obsolescence ranging from 15% to 81%. After making adjustments to the comparable sales, Mr. Scott concluded to external obsolescence of approximately 29% for the subject.

Mr. Scott concluded to a depreciated value for the improvements of $64,913,632.00 with land value of $21,000,000.00 to provide an indicated value by the cost approach of $86,000,000.00, rounded.

Based on the market approach, Petitioner presented an indicated range of value of $77,100,000.00 to $78,600,000.00 for the subject property.

Petitioner presented eight comparable sales ranging in sales price from $12,500,000.00 to $78,267,672.00 and in size from 1,009,530 to 2,877,165 square feet. Unit prices ranged from $5.95 to $27.20 per square foot. Mr. Scott included sales located in Arizona, Ohio, Illinois and California. Mr. Scott testified he made qualitative adjustments to the comparable sales for location, property rights conveyed, conditions of sale, terms of sale, market conditions, building age, condition, environmental conditions, quality and physical characteristics. Mr. Scott placed limited to no reliance on Sales 3, 6 and 8. The remaining sales indicated a range of $11.58 to $27.20 per square foot. Mr. Scott concluded to a value of $22.50 per square foot equal to $70,909,943.00. Excess land value of $6,225,000.00 was then added resulting in an indication of value of $77,100,000.00, rounded.

For comparison, Mr. Scott provided a second analysis based on an allocation of value by building age. Pre-1970s construction was valued at $10.00 per square foot, post-1970s construction was valued at $35.00 per square foot and basement area was valued at $5.00 per square foot for a total value of $72,403,170.00. After the addition of excess land value, this approach provided an indication of value of $78,600,000.00, rounded.

Petitioner considered an income approach; however, concluded that properties similar to the subject were not typically leased, resulting in data too limited to allow reliance on this approach.

Petitioner is requesting an actual value of $68,000,000.00 for tax years 2007 and 2008, based on a value of $80,000,000.00 for the subject property less the stipulated 15% deduction for contamination.

Respondent presented the following indicators of value (prior to deduction of 15% for contamination issues):

Cost:	$193,806,956.00
Market:	$178,252,282.00 to $194,377,027.00
Income:	Not applicable

Respondent used data from *Marshall & Swift/Boeckh*, a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of $193,806,956.00.

Respondent's witness, Ms. Tammy J. Crowley, estimated the land value for the subject as $37,600,000.00. Ms. Crowley divided the subject into four categories. The first area included 591 acres used for commercial operations. The second area included 2,080 acres of open space that included steeper terrain located to the west and east of the commercial area, including a portion known as the Hog Back. The third area includes 854.773 acres located proximate to Wadsworth Boulevard. Respondent valued this area based on potential future development for either residential or commercial development. The fourth area of 215.272 acres is given no value as it is encumbered by the lease to Robinson Brick Company.

Ms. Crowley provided five sales for comparison with the 591 acres of improved land. The sales ranged in price from $19,500,000.00 to $39,700,300.00 and in size from 501 acres to 789.55 acres. Unit values ranged from $34,447.12 to $50,282.19 per acre. Sale 2 was adjusted for water rights, resulting in an indicated sales price of $29,800.00 per acre. Ms. Crowley concluded to a value for the 591 acre commercial portion of the site of $20,685,000.00 equal to $35,000.00 per acre.

Ms. Crowley provided five additional sales for comparison with the 854.773 acres of land for future development ranging in sales price from $2,725,000.00 to $23,000,000.00 and in size from 360 acres to 2,338.96 acres. The sales indicated per acre values ranging from $7,569.44 to $17,435.91. Ms. Crowley concluded to a value for that portion of the site of $12,821,595.00 equal to $15,000.00 per acre.

Respondent provided nine sales of open space that occurred within the extended base period. The sales ranged in sales price from $164,525.00 to $21,000,000.00 and in size from 80.00 acres to 730.92 acres. Unit values ranged from $2,056.56 to $40,269.23 per acre. Ms. Crowley concluded to a value for the 2,080 acres of open space of $4,160,000.00 equal to $2,000.00 per acre.

Adding the four individual area values resulted in an indicated total land value of $37,600,000.00, rounded.

Respondent's witness, Mr. Jon S. Aasen, MAI testified that the improvement analysis was based on a total gross square footage of 3,224,949 based on measurements, architectural drawings and Apex calculations. Respondent relied on *Marshall & Swift/Boeckh* to determine replacement cost new. Mr. Aasen, deducted 7% for curable physical deterioration based primarily on the costs indicated by construction permits pulled by Petitioner between 2000 and mid-2006. Mr. Aasen calculated incurable physical deterioration based on a 1977 effective year of construction for all buildings, resulting in an average age of 29 years. *Marshall Valuation Service* cost manual indicates an average life expectancy range of 45 to 55 years for average quality construction for the various types of buildings associated with the subject. Applying an age of 29 years and an average life expectancy of 50 years, Mr. Aasen concluded to incurable physical deterioration of 32%. Mr. Aasen made an additional deduction of 3% to reflect the subject buildings that had not been remodeled since they were originally built, for a total deduction of 35%.

Mr. Aasen's calculation recognized that those buildings with high bay space ceiling height greater than 28 feet should be adjusted for functional obsolescence. This adjustment is quantified by recalculating the replacement cost new figures for those buildings with high bay space at a ceiling height of 28 feet, then deducting curable physical deterioration of 7% and incurable physical deterioration and functional obsolescence of 35%.

While Mr. Aasen did not make an itemized deduction specifically for external obsolescence, he testified that he recognized the presence of external obsolescence in Buildings M-3, FAB and M-114 by changing their use from factory building to warehouse use in his initial calculation of replacement costs new for these buildings.

Based on the market approach, Respondent presented an indicated value range of $178,252,282.00 to $194,377,027.00 for the subject property.

Mr. Aasen presented five comparable sales in his Summary Appraisal Report and Rebuttal document. Respondent's comparables ranged in sales price from $14,000,000.00 to $142,000,000.00 and in size from 450,900 to 1,986,093 square feet. Values per square foot ranged from $9.02 to $134.18.

Sales 1, 2, 3 and 5 represented the transfer of the leased fee interest to an investor. Sale 4a represented a short-term sale leaseback to Lucent while 4b represented a sale to an investor that specialized in repositioning of assets. After adjustments were made and Sale 4a was eliminated, the remaining sales indicated a range from $32.23 to $100.98. Respondent concluded to a value range of $50.00 to $55.00 per square foot for the subject.

Respondent considered the income approach but determined that there were inadequate lease comparables to apply that approach to the subject property.

Based primarily on the cost approach, Respondent concluded to a value of $162,000,000.00 after applying a 15% deduction for environmental issues. Respondent assigned an actual value of $110,500,000.00 to the subject property for tax years 2007 and 2008.

There are two primary issues before the Board in the analysis of this case. The first is the conclusion of land value. Petitioner contends that the subject should be valued as one 3,741 acre site, with secondary analysis given to the various component uses. Respondent contends that there are four distinct areas of use, varying in size from 215 acres to 2,080 acres, and each should be given an applicable value.

Secondly, Petitioner contends that the subject's value is reduced by significant depreciation, including functional and external obsolescence. Petitioner's external depreciation is calculated using market abstraction from improved sales. Throughout the analysis, Respondent valued the subject as fully occupied by Lockheed Martin Corporation, concluding that external obsolescence is limited to just three buildings (M-3, FAB and M-114). Respondent contends that "If the subject property's improvements had external obsolescence, they would have previously ceased all activities and moved their business to one or more of their other facilities." And further, that:

> The Appraisal Institute indicates that the real estate market value for an occupied manufacturing facility is a component of a going concern. "A going concern is an established and operating business with an indefinite future life. For certain types of properties . . . the physical real estate assets are integral parts of an ongoing business. The market value of such a property . . . is commonly referred to by laymen as *business value* or *business enterprise value*, but in reality it is market value of the going concern including real property, personal property, and the intangible assets of the business." The important component of the preceding discussion is the ongoing operation aspect and that a sale of the business can reflect the market value of the real estate and other business components.

Resp. Ex. A, pg. 39, *citing The Appraisal of Real Estate*, Thirteenth Edition, Appraisal Institute publisher, 2008, pages 29 and 30.

Petitioner presented sufficient probative evidence and testimony to prove that the valuation of the subject property for tax years 2007 and 2008 was incorrect.

The Board finds that Petitioner correctly valued the subject land based on the current use as a 3,741 acre site. The Board finds both parties' attempts at allocation by use to be flawed. The Board is convinced that only approximately half of the 500 acres of the subject site valued by Mr. Scott as leased open space was negatively impacted by the lease to Robinson Brick Company. The Board is convinced that Ms. Crowley incorrectly valued the 854.773 acre portion based on commercial and residential use, and that her value represented a speculative use. In *Board of Assessment Appeals v. Colorado Arlberg Club*, 762 P.2d 146, 153-54 (Colo. 1988) the Court concluded "that reasonable future use is relevant to a property's current market value for tax assessment purposes. . . . [S]peculative future uses cannot be considered in determining present market value." Respondent presented no convincing evidence or testimony that the use of the subject site would change in the near future from its present use. The Board finds Petitioner's land value of $21,000,000.00 is reasonable based on comparable sales.

The Board finds that in Respondent's analysis, Respondent incorrectly valued the subject improvements based on their "value in use" defined as "The value a specific property has to a specific person or specific firm as opposed to the value to persons or the market in general." *The Dictionary of Real Estate Appraisal*, Fourth Edition, Appraisal Institute, pg. 306. Value in use is different than market value or actual value. Respondent's analysis of external obsolescence makes clear that the most likely buyer of the subject property would be a defense company who would "buy the subject property as a component of the much larger space systems business."

The Board is convinced that the market value of the subject should reflect significant external and functional obsolescence due to the limited specific manufacturing application, size and age of the subject improvements. This is evident in the numerous areas toured by the Board that were reportedly no longer being used as of the date of value for manufacturing. Buildings identified as the General Purpose Lab (GPL), Factory (FAC) and Vertical Test Facility (VTF) were being used for non-essential storage use or were generally vacant.

The Board finds Petitioner's analysis of replacement cost new to be more reflective of the actual age, condition and use of the individual buildings. Petitioner provided conclusive evidence of the size and use of each building based on actual building measurements and building plans. Respondent incorrectly relied on a computer calculation of the subject square footage which was shown to be different than previously determined square footages based on building measurements and building plans.

In the analysis of physical incurable deterioration, Mr. Aasen applied an effective completion date of 1977 to all of the subject's improvements despite construction dates ranging from 1955 to 2000. Petitioner's analysis of physical incurable deterioration gave consideration to the actual age, type of structure, construction quality and overall condition of each building.

The Board is convinced that the high bay ceiling heights in 14 of the subject buildings represented functional obsolescence (or functional superadequacy). Petitioner calculated the difference in the cost per square foot for laboratory and light manufacturing space with typical ceiling heights and applied a reduction of $69.80 per square foot to the total high bay space of 258,088 square feet. Respondent's analysis of functional obsolescence was based on Mr. Aasen's calculation of replacement cost new, which was previously rejected by the Board due to the discrepancy in building measurements.

The Board is not convinced that an adjustment was required for building efficiency. While it is reasonable that freestanding office, manufacturing or warehouse buildings have common area load factors below the subject, the subject is in fact a freestanding campus manufacturing facility. It is reasonable that such a facility would offer common areas for a variety of uses, including cafeteria area, large presentation rooms, on-site medical clinic, fire station, barber shop, credit union and employee store. Petitioner presented no market data to support that the subject's common area load factor was atypical when compared to other freestanding campus properties to support the deduction for above market building inefficiency.

Petitioner supported a deduction for external obsolescence of 29% based on market abstraction from comparable sales with an adjustment for those properties that were calculated to be fully depreciated. The Board is convinced by Petitioner's sales comparables along with the lack of sales of large manufacturing facilities that there would be a small number of potential buyers that would require the large campus size and/or the specific manufacturing use of the subject. Mr. Scott calculated total accrued depreciation for his comparable sales, deducted physical depreciation based on age and concluded to external depreciation ranging from 15% to 81% with an average of 38.4%. Sales were ranked and adjusted based on comparability to the subject. The sales indicated a range of over 25% to under 40%, with the most comparable sales indicating external depreciation of 30% to 31%.

The Board finds the cost approach to be the most reliable method of valuing a large manufacturing campus like the subject. The sales comparison approach is given limited consideration. The Board finds Respondent's sales to be less reliable. All included the leased fee interest and/or were sold to an investor. The subject is an owner occupied property, with minimal space leased to outside tenants. Several sales included buildings located in different neighborhoods rather than in a campus environment like the subject. Although Petitioner's sales varied in use and location with no adjustments made, the Board finds them reliable for use in abstracting depreciation.

Eliminating the deduction for functional obsolescence due to building efficiency, the revised total indicated value based on Petitioner's cost approach is $108,406,626.00 equal to $34.40 per square foot of above ground space. This value is above the value range indicated by Petitioner's sales and near the bottom of the range indicated by Respondent's sales.

The Board concludes that the actual value of the subject property should be reduced to $92,146,000.00, rounded, for tax years 2007 and 2008 based on an indicated value by the cost approach of $108,406,626.00 less the 15% stipulated adjustment for contamination.

ORDER:

Respondent is ordered to reduce the actual value of the subject property to $92,146,000.00 for tax years 2007 and 2008.

The Jefferson 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 30th day of June 2010.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

Lyle D. Hansen

Lyle D. Hansen

Karen E. Hart

Karen E. Hart

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

Heather Flannery

STATE OF COLORADO
SEAL
BOARD OF ASSESSMENT APPEALS

49159 & 51269