

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GRAND MESA EGG CO.,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF EQUALIZATION.</p>	▲
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: William A. McLain, Esq. Address: 3962 South Olive Street Denver, Colorado 80237-2038 Phone Number: (303) 759-0087 Attorney Reg. No.: 6941</p>	<p>Docket Number: 37018</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 10, 2001, Mark R. Linné, Karl Von Burg, and Karen E. Hart presiding. Petitioner was represented by William McLain, Esq. Respondent was represented by Valerie J. Robison, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1133 – 21 ROAD, GRAND JUNCTION, COLORADO
(Mesa County Schedule No. 2697-114-00-771)**

Petitioner is protesting the 2000 actual value of the subject property, a poultry operation consisting of 10 poultry buildings and various other support buildings, including a residence. The property is approximately 88.60 acres in size.

ISSUES:

Petitioner:

Petitioner contends that the Board of Assessment Appeals established a value for

the subject property in 1999. The only reason to change the value in the intervening year is due to an unusual condition. A new poultry building was added for year 2000, which should be the only difference in the assessor's value. However, Petitioner also contends that water and lighting costs were included in the previous year's value and they should have been excluded. Case law states that although the assessor cannot change the value during an intervening year except under the unusual condition statute provision, the taxpayer can bring up issues that may change the value, even during an intervening year.

Respondent:

Respondent contends that certain structures were omitted from the assessor's valuation in 1999. They contend that these structures were also omitted from the Board of Assessment Appeals' 1999 established value and, therefore, may be added to the property value for 2000. They dispute that the lighting and plumbing fixtures are exclusive to the poultry operation but are a part of the real property.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Michael J. O'Conner, general manager of Grand Mesa Egg, testified that the only addition to the property between June of 1998 and June of 1999 was Poultry House #10.

2. Mr. O'Conner described the poultry operation. It is a self-contained confinement operation. He described the individual building characteristics. Eight of the poultry buildings are similar in capacity. Poultry Building #9 is larger than the other eight buildings, with Poultry Building #10 being the largest.

3. Mr. O'Conner testified that the watering system for the building is used for the watering of the birds, as well as evaporative cooling, which controls the temperature for the birds. The lighting system is used to achieve an optimum light level for the birds in order to obtain full egg production. The lighting is metered according to grower specifications. The lighting is used to regulate the egg-laying schedule of the birds.

4. Under cross-examination, Mr. O'Conner admitted that lighting would be needed not only for the birds, but for employees as well. He admitted that all of the buildings shown on the sketch on page 16 of Respondent's Exhibit 1 are located on the property. He testified that the maintenance shed has plumbing for the employees. They do not wash down the chicken facilities. The only place that water is used around the buildings is an occasional need to clean the manure conveyor belt. Building #10 was completed in mid-June of 1999. He is not aware of an independent water plumbing system for purposes other than for the birds. He believes the electrical conduits run from the ground to each building. The conveyor belts are covered. There are walk paths between the buildings. The lights are incandescent and are mounted on the walls of the buildings.

5. In redirect testimony, Mr. O’Conner verified that in addition to the new Building #10, there is also a water tank that was not located on the property in 1999. It is an emergency holding tank for Buildings #9 and #10.

6. Upon questioning from the Board, Mr. O’Conner testified that worker teams are assigned to certain buildings only, eliminating the need for anti-contamination procedures. If an employee needs to enter a building when the bird lighting is off, they must use flashlights to see.

7. Petitioner’s witness, Mr. Ronald Sandstrom, of F&S Tax Consulting Services, testified that Exhibit A is his valuation report. He described the physical attributes of the property. He discussed the 1999 Board of Assessment Appeals’ (BAA) decision for the subject property. He believes the only change to the subject property valuation for tax year 2000 should be the addition of the new Building #10 value, and the removal of the lighting and water system values from the poultry buildings. He considers these fixtures to be personal property. Every item except Poultry House #10 was on the property in 1999; he does not believe there is any omitted property.

8. Petitioner’s witness presented an indicated value for the subject property of \$1,227,791.00.

9. Mr. Sandstrom testified that the residential property value is not in dispute, and his land value is the same as Respondent’s.

10. Petitioner’s witness did not present an income approach to value. Mr. Sandstrom testified that the income approach is not applicable to poultry farms.

11. Petitioner’s witness did not present a market approach to value. Mr. Sandstrom testified that he did not use the market approach, as no poultry farms have sold in Colorado. There have been sales in other states, but there are many factors that cannot be extrapolated from the transactions.

12. Petitioner’s witness presented a cost approach to derive a market-adjusted cost value for the poultry operation located on the subject property. Mr. Sandstrom testified that he used the “S” category in the Marshall and Swift cost manual to calculate the new poultry building’s value, using a starting value of \$12.41 per square foot, with a deduction for lighting and plumbing costs. His cost calculation for Poultry House #10 was adjusted for the curtain wall as well as the electrical and plumbing systems.

13. Mr. Sandstrom testified that he feels the Division of Property Taxation bulletin shown as Page B in Exhibit A supports his position that the water and lighting systems are personal property. They are there only for the business.

14. Mr. Sandstrom testified that his concluded value is the 1999 BAA determined value plus the new building value, less deductions for the water and lighting systems. He read portions of the 1999 BAA decision indicating that the Board recognized the dry storage warehouse and included its value in its 1999 decision, contrary to Respondent’s argument that the building was omitted in 1999.

15. Mr. Sandstrom testified that he believes that once a reappraisal year value has been established, the only basis for an adjustment in the intervening year is for a new building.

16. Under cross-examination, Mr. Sandstrom testified that he did not contact local appraisers regarding replacement costs. He did not look at the national building cost manual or compare the Mesa County building permit value to his value. He did not include a functional obsolescence deduction for Building 10, as it is a new building. In his prior year appraisal, he did not include the conveyor or grain storage bins. He did include the dry storage building and the maintenance building. He called the maintenance building a “shed/office” in his prior report, with slightly different dimensions.

17. In redirect, Mr. Sandstrom testified that he excluded the storage bins and conveyor from his valuation. The bins have a 2-day feed supply capacity and he feels they are personal property. The conveyor itself is personal property; the conveyor cover has not been assessed in the past by either Respondent or himself.

18. Upon questioning from the Board, Mr. Sandstrom testified that he considers the large bins to be personal property, as well as the water holding tank. The conveyor belt cover is merely a metal-sided cover over the belt to protect it from the elements. The covers are only 6 feet wide and 7 feet high; they probably would not be used for anything else. There was no omitted property in his previous year value report, other than the cover over the conveyor belt. He believes that the conveyor covering would contribute only a minimal value to the property. The covers are not load bearing and the ends are open to the poultry houses; it is not a typical thing for poultry houses. They are just passageways and do not add to the productivity or capacity of the facility.

19. Upon questioning from the Board, Mr. Sandstrom testified that he did not feel the plumbing or lighting would be used for any other purpose. They are timed operations. He believes that the lighting would need substantial improvements to be used for another purpose. The cooling walls are necessary to the poultry business. The lighting could be used for something else, but this operation uses them for the egg-laying enhancement of the birds. Regarding the Marshall & Swift electrical and plumbing costs, he admitted that the disputed items are fixtures to the building but they are used for the poultry process. Regarding the electrical service, he still feels that it is only useful to the poultry operation. He is not an electrician and is not familiar with the electrical set up.

20. In redirect, Mr. Sandstrom testified that he felt Respondent’s cost of \$4.57 per square foot for the covered conveyor system value is high. He believes it should be 50% to 75% of that value. He put no emphasis as to whether it would be considered a part of the conveyor itself.

21. Petitioner is requesting a 2000 actual value of \$1,227,791.00 for the subject property.

22. Respondent's witness, Mr. Daniel K. O'Connor, a Certified General Appraiser with the Mesa County Assessor's Office, presented a total valuation of \$1,727,615.00, based on the following indicators of value:

Market:	\$ 87,270.00	for the residential portion only
Income:	\$ 45,310.00	for the agriculture land value only
Cost:	\$1,595,035.00	for the balance of the buildings

23. Respondent's witness testified that he used the market approach to value the dwelling, and the income approach to value the agricultural land. The balance of the property was valued using the cost approach.

24. Mr. O'Connor testified as to the various site and improvement descriptions. For his cost information, he used 5 different sources, which can be found on page 14 of Exhibit 1.

25. Mr. O'Connor testified that he believes some building values were omitted from last year's BAA decision. He believes the covered conveyor system, maintenance building, dry storage and shipping building, and the feed storage bins were omitted. They were omitted from the assessor's records. He considers the 20 feed storage bins to be real property, as they are affixed to the ground. The conveyor building speaks for itself. Building 10 is new construction.

26. Mr. O'Connor explained the method of determining the locally derived cost value of buildings in Mesa County. They also use the Marshall & Swift manual, as well as other sources. Typically, he uses these sources to confirm his value conclusion.

27. Regarding the conveyor cover, Mr. O'Connor testified that he used the same value per square foot as Poultry Buildings 1 through 8, even though prices per square foot would be higher due to the conveyor cover's lesser square footage. He used a 20-year life as a Class D building and assumed there was no insulation.

28. Mr. O'Connor testified that Poultry House #10 was picked up via a site inspection. He pointed out that the building permit value was higher than the value assigned. He did an exterior and minimal interior inspection. He used a year built of 1999 and a value per square foot of \$8.75. He testified that the value of Poultry Building #10 came right out of Marshall & Swift. He used a Class "S" good classification and adjusted for perimeter, height, and sidewall curtains. He did not make adjustments for electrical and plumbing systems. They are hardwired and fixed to each building. They would be expected to stay there. It would cause damage to the building if removed. He does not believe the Del Mesa case applies, as those fixtures were portable types. Mr. O'Connor testified that he used a local multiplier of 1.00, as given by the DPT and Marshall & Swift, for Building #10. He pointed out that Mr. Sandstrom used a multiplier of .995.

29. Mr. O'Connor testified that he also used the National Building Cost Manual to develop costs for the buildings, other than the covered conveyor system. The total aggregate value for the subject property would have been higher using the National Building costs versus Marshall & Swift.

30. Mr. O'Connor testified that he also conducted a survey of local contractor costs. He obtained estimates for the buildings, other than the feed bins and conveyor cover. This information indicated a 40-year life to be appropriate, due to the local climate. The cost estimate for the dry storage building includes electrical but not plumbing costs. Poultry Shed #10 includes both plumbing and electrical. Certain electrical services must be brought into the building. The minimum price for this area for electrical service to the building, as well as water service to the building, is \$2.00 per square foot each. The maintenance shed is attached to Building 5 and he elected not to use any interior finish. He used \$4.00 per square foot for plumbing and electrical. He indicated that the local contractor costs would be 30% higher than the value he assigned.

31. Mr. O'Connor testified as to other possible uses of the building in support of his position that the fixtures for the poultry operation were not exclusive to that particular business.

32. Mr. O'Connor testified that he did not include the water tank in his valuation as he lacked information. Traditionally they are unique to the operation.

33. Mr. O'Connor testified that he believes the subject property value should be the 1999 BAA value plus the value of the new poultry house and the 4 omitted items.

34. Under cross-examination, Mr. O'Connor clarified that the 5 additional property values he is requesting are as follows:

Poultry House #10	\$238,180.00
Feed Tanks (20)	\$ 41,040.00
Dry storage building	\$ 94,080.00
Shop/Maintenance shed	\$ 19,150.00
Conveyor Cover	\$ 27,075.00

35. Under cross-examination, Mr. O'Connor admitted that the previous BAA decision at Finding #4 referred to the dry storage building noted above. He testified that he omitted it in his 1999 value. He thinks the BAA may have omitted it also based on his mathematics.

36. Regarding Poultry Building #10, Mr. O'Connor testified that his starting value per square foot of \$8.75 was the same as Poultry Building #9. It included plumbing and electrical costs. He reiterated that the \$2.00 per square foot as obtained from the local contractor shown on page 81 of Exhibit 1, is a minimal cost; he does not know how much is included for the system in question. He admitted that the DPT recommends the use of Marshall & Swift, but pointed out that they also allow for the development of local cost tables. Mesa County costs tables were developed with other counties. He does not know how much of the \$8.75 square footage costs would be for plumbing and electrical. He only talked to Alpine C.M., Inc. for contractor costs. He does not know if they construct the majority of buildings in Mesa County. He would value the water tank as personal or real property, depending on how it was affixed.

37. Respondent assigned an actual value of \$1,727,615.00 to the subject property for tax year 2000.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2000.

2. There are three issues before the Board in this case and the Board will address each of these issues in turn.

3. First, Respondent argues that there are 4 items that were not included in the Board's 1999 decision that ought to be considered omitted property for tax year 2000. Those items are a shop/maintenance building, a dry storage building, feed bins, and the manure conveyor cover. The Board is not convinced, based on the evidence and testimony presented, that the 1999 order did not include the shop/maintenance building and the dry storage building values. Petitioner's witness testified that the shop/maintenance building was included in his inventory for 1999. The Board used Petitioner's inventory of property in its decision and specifically mentioned the dry storage building in its findings of fact. The feed bins were also mentioned in the findings of fact, with discussion as to whether they should be considered real or personal property. Therefore, the Board concludes that the first three items mentioned by Respondent were discussed and were included in the Board's previous order and determined value of \$1,149,860.00.

4. During the course of this 2000 hearing, Petitioner's witness testified that the previously mentioned three items were included in his 1999 report, but admitted that he did not include the conveyor belt cover and Petitioner's Counsel conceded that this property could be considered omitted property. The Board finds that this property was, in fact, not included in the prior year value and can be considered omitted property. However, the Board does not agree with Respondent's assigned value, which at \$4.75 per square foot is the same value per square foot as Poultry Houses 1 through 8, and would include costs for items not installed or included in the conveyor system cover. The cover was testified to as being non-load bearing passageways and an unusual feature for poultry operations. The Board was convinced by Petitioner's witness that the cover would add little value to the property. Therefore, the Board reduced Respondent's value of \$27,075.00 for the conveyor belt cover by 75% and arrived at an omitted property value of \$6,770.00.

5. The second issue before the Board is the value of the new construction. A new poultry shed (#10) was constructed in 1999 and added to the property value in 2000. The Board carefully reviewed the valuation procedure used by both parties. Respondent presented a number of valuation calculations utilizing the cost approach to value, most being post-base year information and therefore not relevant. Petitioner used the cost approach via the Marshall & Swift Cost valuation service, which is the same service used to value the balance of the buildings on the subject property. The Board determined that the use of Marshall & Swift (M&S) would be the most appropriate and consistent approach. However, the Board determined that all of the M&S data submitted by both parties was post-base year. The only base year data presented was Respondent's locally developed computerized cost tables, which were used to establish the assigned value of Poultry Shed #10. Therefore, the Board affirms Respondent's value of \$238,180.00 for Poultry Shed #10, before deduction of water and electrical fixture costs.

6. The third issue before the Board is whether plumbing and electrical fixtures should be deducted from the real property value of the poultry houses. At issue is whether these fixtures are related to the poultry business operation, rather than components of fixture systems which are required for the proper operation of the improvements. The Board was convinced that the timed lighting system installed in the poultry houses is specific to the business. Testimony indicated that the system was used solely to produce optimal egg production from the chickens. However, the Board was not convinced that all electrical costs should be excluded from the real property. Some electrical service must be necessary to allow the proper operation of the improvements. Therefore, the Board finds that the timed lighting system itself should be excluded from valuation, but the base electrical service to and integrated in the building structure should be included in the valuation.

7. Regarding the plumbing system, the Board finds a similar conclusion as with the lighting system with the following additional concern: the 20% deduction for the cooling curtains may already include a deduction of a portion of the plumbing costs, as the primary operation of this system involves water cooling.

8. The Board finds the testimony and evidence provided by both parties in this case relating to these fixture costs to be confusing and conflicting. The Marshall & Swift valuation exhibits used by both parties were past the base year level of value date of June 30, 1998. There was conflicting testimony regarding the local cost multiplier: Petitioner used .995 and Respondent used 1.00 and 1.02. Both parties testified that these multipliers were from Marshall & Swift, but neither party submitted documentation to support either factor. Respondent's testimony and evidence indicated that costs should be \$2.00 per square foot for the electrical service and \$2.00 per square foot for the plumbing system, for a total square footage cost of \$4.00, but this information was based on a local contractor quote dated March of 2001, post-base year. Petitioner is asking for a reduction based on \$0.96 for the electrical system and \$0.63 for the plumbing system, based on Marshall & Swift costs that are post-base year from May of 1999.

9. We believe a deduction per square foot for the timed lighting system and the plumbing system would be appropriate for costs that are specific to the operation of the business, but must leave intact costs necessary for the operation of the building. We believe that any deduction made for these services must be based on actual base year data. Since such base year data was not available in the evidence, and the testimony was conflicting, the Board could not determine what the deduction should be via the Marshall & Swift cost calculation process.

10. The Board also reviewed the evidence and testimony regarding the inclusion of these fixture costs in the locally developed cost manual used by Respondent. The Board noted that Respondent's base value per square foot was much lower than the base value indicated in the Marshall & Swift materials in the evidence. Respondent's witness testified that he was not aware of what was included in the locally derived cost manual square footage costs and could not specifically identify costs that would be used for the valuation of the electrical and plumbing systems. Without this information the Board could not determine what deduction, if any, should be made via Respondent's cost approach.

11. Therefore, the Board determined there was insufficient evidence to determine an adjustment amount, if necessary, for the electrical and plumbing issues, and denies Petitioner's request for a further valuation reduction based on those costs.

12. The Board concluded that the 2000 actual value of the subject property should be calculated as follows:

1999 Prior year BAA determined value	\$1,149,860.00
Value of the omitted conveyer cover	\$ 6,770.00
Value of the new construction (Bldg. #10)	\$ <u>238,180.00</u>
Total 2000 value	\$1,394,810.00

ORDER:

Respondent is ordered to reduce the 2000 actual value of the subject property to \$1,394,810.00, with \$45,310.00 allocated to land and \$1,349,500.00 allocated to improvements.

The Mesa County Assessor is directed to change his records accordingly.

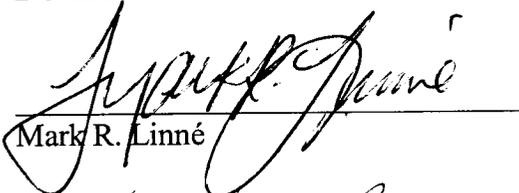
APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

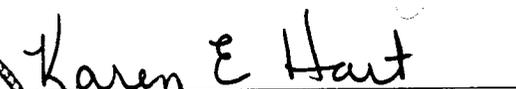
If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 16th day of May, 2001.

BOARD OF ASSESSMENT APPEALS


Mark R. Linné

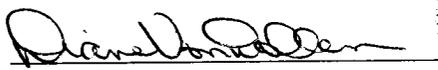

Karl Von Burg


Karen E. Hart

This decision was put on the record

MAY 16 2001

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


Diane Von Dollen 37018.01

