

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Petitioner:

WILLIAM F. HANNAHAN,

v.

Respondent:

BOULDER COUNTY BOARD OF EQUALIZATION.

Attorney or Party Without Attorney for the Petitioner:

Docket Number: 43088

Name: William F. Hannahan
Address: 706 Elliott Street
Longmont, Colorado 80501
Phone Number: (303) 678-8778

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 26, 2004, Rebecca Hawkins and Judee Nuechter presiding. Petitioner appeared pro se. Respondent was represented by Robert G. Gunning, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**229 Airport Road, Hangar 39, Longmont, Colorado
(Boulder County Schedule No. R0116486)**

Petitioner is protesting the 2002 actual value of the subject property, a hangar located at Vance Brand Airport in Longmont, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the Respondent is attempting to charge taxes on property he does not own and that the subject property has been overvalued based on Internal Revenue Service depreciation schedules.

Respondent:

Respondent contends that the subject property has been correctly valued for tax year 2003. The testimony will show that the subject property has non-taxable possessory interest in land and taxable commercial improvements.

FINDINGS OF FACT:

1. Petitioner, Mr. William F. Hannahan, presented the appeal on his own behalf.
2. Based on I.R.S. Publication 946, Petitioner presented an indicated value of \$10,000.00 for the subject property.
3. Petitioner did not present any comparable sales.
4. The Petitioner testified that he reviewed various documents from the state's web site. His interpretation of those documents indicated that the cost approach would draw the maximum value. Farm buildings would be most similar to airplane hangars based on Division of Property Taxation (DPT) classifications. Instead, he proposed that a 20-year depreciation rate be applied to the sale price of the hangar and a 10% rate would include the subject's large overhead door, which has no useful application other than for an airplane hangar. This approach would more accurately indicate the current value of his hangar and is based on I.R.S. Publication 946.
5. Mr. Hannahan testified that Petitioner's Exhibit A, page E9A, is a Bill of Sale for the subject property. The Respondent's indicated value for the subject property is actually higher than the \$19,850.00 Petitioner paid in 1994. Petitioner's Exhibit A, page E9B, illustrates the value of the subject property over the past 10 years utilizing a 20-year depreciation rate. Additionally, the exhibit shows the Respondent's assessed value of the subject property and the taxes that have been paid versus what the value would have been if the property had been depreciated and the resulting taxes Petitioner believes he should have paid.
6. Mr. Hannahan testified that Petitioner's Exhibit A, page E10, is an estimate dated February 7, 2004 that indicates it would cost \$16,400.00 to replace the subject property.

7. Under cross-examination, the Petitioner requested that the subject property be classified as personal property. The Bill of Sale presented in Petitioner's Exhibit A, page E9A, is for the assessed property. An additional Bill of Sale, dated December 12, 1993 in the amount of \$8,550.00, reflects the costs incurred for the concrete pad, taxiways, and utility work that were completed on the leased land. The Petitioner does not believe these items are taxable since they are affixed to the land owned by the City of Longmont and will remain there when his lease expires.

8. The Petitioner testified that the subject property is a steel building that is approximately 10 years old. There is a natural gas line to the hangar, although it is not connected. There are no other utilities to the site.

9. Under cross-examination, Petitioner testified that the Bill of Sale shown in Petitioner's Exhibit E9A is only for the building. The second Bill of Sale refers to leasehold improvements owned by the City of Longmont and subject to the existing ground lease with the city. If Petitioner were to sell the hangar to another party, he would not be selling the leasehold improvements included in the second Bill of Sale, although the purchaser would have use of the improvements. The second Bill of Sale from Keith Griffith to William F. Hannahan in the amount of \$8,550.00 was dated December 12, 1993, and included the leasehold improvements.

10. Upon questions from the Board, the Petitioner indicated that he would have to install a meter, open an account and install a furnace in order to utilize the gas line to the building.

11. Petitioner's witness, Mr. Steve Alderman of Alderman Construction, testified that he is familiar with the cost of building airplane hangars at the Longmont Airport. He has built nine of the hangars at the airport. He indicated that the cost components of replacing a hangar similar to the subject property would be \$16,400.00 and would take approximately a week or two to erect whereas a full construction project would take up three to four months.

12. Under cross-examination, the witness testified that his company constructed the nine hangars during 1996-1998. The hangars are 42 feet by 42 feet in size. Keith Griffith built hangars before Alderman Construction started building hangars at the Longmont Airport. Mr. Alderman testified that building permits, lease approvals and specification approvals had to be obtained prior to construction. He did not engage an architect and the costs that he incurred were for his time, which was too long and not profitable, so he did not build any more hangars after the initial nine. The estimate of \$16,400 to replace the subject hangar assumes that the concrete is already in place and no leasehold improvements are to be constructed. Mr. Alderman testified that, from 1998 to June 30, 2002, costs have increased for building permit fees, materials and labor. He did not provide a list of materials to support the estimate submitted to the Petitioner, but relied on his experience in deriving the estimate to replace the subject property.

13. Under redirect testimony, the Petitioner indicated that the \$9,900.00 for the building is a direct quote from the building manufacturer, whereas the other prices are estimates. Petitioner testified that the estimate for the bi-fold door might be high. The electrical installation costs would be very minimal for the door and lights.

14. During re-cross examination, Mr. Alderman testified that he did not consult with the

City of Longmont before providing the quote to replace the existing hangar.

15. Upon questions from the Board, Mr. Alderman testified that one would probably have to get a building permit if they wanted to replace only the building on the leased land with the current leasehold improvements, although he did not know that for sure.

16. Petitioner is requesting that the subject property be reclassified to personal property with a 2003 actual value of \$6,109.25.

17. Respondent's witness, Samuel M. Forsyth, a Certified Residential Appraiser with the Boulder County Assessor's Office, presented the following indicators of value:

Market:	\$52,920.00
Cost:	\$29,700.00
Income:	\$37,200.00

18. Based on the market approach, Respondent's witness presented an indicated value of \$52,920.00 for the subject property.

19. Respondent's witness presented 17 comparable sales ranging in sales price from \$24,000.00 to \$80,000.00 and in size from 1,512 to 2,100 square feet. The comparable properties were all located at the Vance Brand Airport and the sales occurred from November 1997 to May 2002. The indicated median price per square foot of these 17 comparable sales was \$29.82. The five sales that occurred during the base period had an indicated median price per square foot of \$31.07.

20. The witness testified that the market approach is the most common approach, but its reliability depends on the amount and quality of data. No 1,764 square foot hangars sold during the base period, so he used the five sales that did occur during the base period with a median price per square foot of \$31.07. Airplane hangars are typically sold by Bill of Sale and few sales are recorded. The comparable sales utilized in Respondent's market approach were only sales that had been recorded. Typically, individuals purchase a hangar via a Bill of Sale first and then proceed to the city for an assignment of the existing lease. Mr. Forsyth indicated that he checked the Boulder County records for Bills of Sale, but did not find a recorded second Bill of Sale for the subject property's leasehold improvements. The witness indicated that the Bill of Sale was for ownership improvements and not for possessory interest. Respondent determined that the subject property is real property as it is attached to the land, is bolted in several places and meets the definition of an improvement.

21. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$29,700.00.

22. Mr. Forsyth testified that the interest in the land might be more valuable since the cost approach is typically significantly lower than the market approach in the valuation of airport hangars. Mr. Forsyth estimated a modified net present value of the income stream. By estimating possible escalation of rents and taking those back to the present value of the lease, he arrived at a

value for the non-taxable interest in the land. Since the subject is not rented, it had to be estimated for this amount.

23. The Respondent's witness testified that the replacement costs showing a depreciated value is a good indicator of value for the subject property. He used Marshall & Swift Valuation Service to determine a depreciation rate and replacement cost. The subject is considered a Class S hangar with a quality rating of 1.5, which is just below average. The result is \$20.50 square foot and appears to be an accurate representation of the marketplace with a base value of \$36,162.00. He then applied a straight 50-year life with 2 percent depreciation per year, which is appropriate for the market. The indicated replacement cost new for the subject property is \$29,707.00. The 50-year life was based on his experience. If the building were 50 years old, it would not hamper its use. The witness testified that he does not use IRS guidelines to appraise properties. Real property should be appraised using the Marshall & Swift Cost Valuation Service, and this approach is the best way to value the subject property.

24. Respondent's witness used the income approach to derive a value of \$37,200.00 for the subject property.

25. The witness testified that he estimated income to prepare the income approach. A survey of hangar owners indicated the rent for hangars to be \$550.00 a month. Estimated items included a 5 percent vacancy/collection rate, 20 percent for expenses, a capitalization rate of 11 percent plus a 2.2 percent effective tax rate resulting in an indicated capitalized value of \$37,200.00. The witness believes this approach is not as applicable as the other approaches to value.

26. Respondent's witness physically inspected the exterior of the subject property approximately two weeks prior to this hearing.

27. Mr. Forsyth testified that of the three approaches to value, the cost approach is the most influential.

28. Respondent's witness testified that the Vance Brand Airport is owned by the City of Longmont and has an assortment of hangar types. The subject is considered a freestanding hangar. The occupancy of the hangars is mixed; some of the hangars are income producing and some are owner-occupied. Most of the hangars are owner-occupied like the subject property with non-taxable possessory interest in the land. The subject property is of overall average construction and is typical of hangars constructed in 1993.

29. The witness testified that the hangar was determined to be real property based on DPT's definition of real property. This is important due to the nature of the attachment to the land, although title to the land has not been acquired. The improvement has been bolted to the land, although there is no indication that it could not be un-affixed to the land. Based on his interpretation of the statutes, the hangar is an improvement to the land.

30. The Respondent's witness testified that he believes there are 20-year leases from the city in place for the hangars at Vance Brand Airport. Based on the three approaches to value, there is a wide range of adjusted values for the hangars. Mr. Forsyth believes the best way to value non-income producing hangars is by the cost approach. The assigned value for the subject property is only for the improved property.

31. During cross-examination, the witness testified that he did not include a taxable value for the concrete in the appraised value presented at this hearing. Additionally, he did not include access to the taxiway or runway in the taxable value. He believes that the assessed value of property changes when the market dictates a change.

32. Mr. Forsyth testified during cross-examination that he does not know what percentage is attributable to the comparable sales' concrete floors, taxiway access, or foundations in the market approach. He gave the most weight to the cost approach, as is indicated by the \$29,700.00 final opinion of value shown in Respondent's Exhibit 1.

33. During cross-examination, the witness testified that the market approach and the cost approach shows that land value is not included in Respondent's appraisal. Respondent's \$20.50 per square foot value for the subject building was based on Marshall & Swift's costs for an average to low class hangar. Since this rating indicates a concrete floor, which the Petitioner says he does not have, a credit could be applied for the concrete floor. Mr. Forsyth believes the concrete floor is taxable as a fixture or an improvement since the Bill of Sale includes the concrete pad owned by Petitioner. There is no plumbing or water at the subject site but there is electrical service.

34. Mr. Forsyth testified that he disagrees with Mr. Alderman's estimate to replace the hangar. Mr. Alderman did not provide supporting specifications in his document for a cost replacement.

35. During redirect examination, the Respondent's witness testified that Marshall & Swift Valuation Service could overestimate as well as underestimate costs. There can be additional fees such as survey and engineering costs that are included in the cost estimate when the entire unit is being estimated for replacement. The costs are then depreciated for age. Applying Marshall & Swift Valuation costs to airplane hangars is a method to equalize and standardize valuations. Mass appraisals are done through Computer Assisted Mass Appraisal (CAMA) and provide an avenue to check a broad population of properties equitably.

36. Under re-cross examination, Mr. Forsyth testified that the concrete pad is assessable and it was originally included in the Respondent's appraisal. The County Board of Equalization (CBOE) held that the concrete pad was non-taxable and deducted it from the value resulting in a taxable value of \$25,200.00 for the hangar. The Respondent is assessing the hangar and its pertinent accessories that are beneficial to the hangar owner. The cost approach value in Respondent's appraisal is higher than the assigned value because it includes the concrete pad.

37. Respondent assigned an actual value of \$25,200.00 to the taxable improved property and \$3,100.00 to the non-taxable possessory interest in land for tax year 2003.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the valuation of the subject property for tax year 2003 is correct.

2. The Board is not allowed to utilize Internal Revenue Service depreciation schedules in the valuation of real property for taxation purposes. State statutes require that commercial property be appraised by consideration of the market, cost and income approaches to value.

3. The Board notes that there was conflicting testimony from the Respondent's witness regarding whether the concrete pad was valued in his appraisal report. The Board of Assessment Appeals sustains the Boulder County Board of Equalization's determination that the concrete pad is non-taxable.

4. The Board finds the airplane hangar, not including the underlying concrete pad, to be taxable real property. Both the Respondent and the Petitioner testified that the hangar is attached to the land. The Board based its conclusion on C.R.S. 39-1-102, which states, "Improvements means all structures, building, fixtures, fences, and water rights erected upon or affixed to land, whether or not title to such land has been acquired."

5. The Board agrees that the value assigned by Respondent to the subject property is supported by a reliable cost approach to value that includes appropriate depreciation for age and that the Marshall & Swift Valuation Service is an objective resource utilized in appraisal practice to support the assigned value.

6. The Board placed little weight on the Alderman Construction estimate for reproducing the subject improvement, as it lacked pertinent specifications and was not supported by documentation.

7. After careful consideration of all of the evidence and testimony presented, the Board affirms Respondent's assigned value of \$25,200.00 for the subject real property improvements.

ORDER:

The petition is denied.

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

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 23rd day of April, 2004.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins

Rebecca A. Hawkins

Judee Nuechter

Judee Nuechter

This decision was put on the record

APR 23 2004

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

Penny S Lowenthal
Penny S Lowenthal

