

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>WELBY GARDENS COMPANY,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 57602 & 57603</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 23, 2012, Diane M. DeVries and Lyle D. Hansen presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Doug Edelstein, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2007 and 2008.

Petitioner and Respondent stipulated to the consolidation of Docket No. 57602 and Docket No. 57603. Petitioner and Respondent stipulated to acceptance as expert witnesses; Mr. Ronald C. Sandstrom and Mr. Jeremy Maldonado.

The subject property is described as follows:

Docket No. 57602
2761 East 74th Avenue, Denver, Colorado
Adams County Schedule Nos., R0071176 and R0071177

Docket No. 57603
6700 Washington Street, Denver, Colorado
Adams County Schedule No. R01159506

The subject property is comprised of a collection of wholesale greenhouses and a garden center forming Welby Greenhouse and Garden Center business complex located in Denver. The subject is a wholesale greenhouse bedding plant operation, with a limited portion of retail and floral shop. Included are greenhouses, utility and support buildings, a boiler room, garage and an office.

Docket No. 57602 improvements contain a total of 484,217 square feet of total building area per Petitioner and a total of 492,649 square feet per Respondent. These structures are situated on a 32.669-acre site. Docket No 57603 contains a total of 123,872 square feet of total building area. These structures are situated on a 4.421-acre site.

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

Docket No. 57602

Cost Approach: \$1,666,454.00 for tax years 2007 and 2008.

Docket No. 57603

Cost Approach: \$311,003.00 for tax years 2007 and 2008.

Petitioner presented a value of \$1,601,272.00 for Docket No. 57602.00 on the Petition but changed that value to \$1,666,454.00 at the hearing.

Mr. Sandstrom considered the cost approach to be the most reliable approach to value for the subject property and placed no reliance upon the income approach or the market approach.

Mr. Sandstrom relied upon the Marshall Valuation Service to derive the individual cost estimates for each of the structures detailed in Petitioner's Exhibit One for Docket No. 57602 and Exhibit Two for Docket No. 57603.

He provided information on the various building classifications for quality of construction and roofing types and with building construction described as metal and pipe frame with fiberglass roof. He provided information on year built, structure components and building area. Mr. Sandstrom derived a replacement cost new per square foot for each structure and adjusted for differences in building height and perimeter and concrete area. He included adjustments of a current cost multiplier and local multiplier to account for changes in cost and locality. These adjustments resulted in an adjusted replacement cost new per square foot. He then derived depreciation for each structure based upon the Life Expectancy Guidelines provided by the Marshall Valuation Service by comparing typical life expectancy in years to the effective age in years.

For Docket No. 57602, Mr. Sandstrom included information on a total of 20 structures. The structure years of construction ranged from 1973 to 2003. Improvement quality ranged from low to average. Typical life expectancies ranged from 20 to 30 years. Effective ages ranged from four to 33 years resulting in rates of depreciation ranging from 14% to 80%. He concluded a replacement cost new less depreciation improvement value of \$1,208,894.00.

Mr. Sandstrom testified that the Adams County Assessor divided the subject land into two categories: Agricultural Land and Other Agricultural Land. He testified that the Adams County Assessor had classified the Agricultural Land of 10.0 acres as "class II flood irrigated" land; that his land value for this ten-acre parcel was concluded at \$448.00 per acre and that was based upon the original land value assigned by the Adams County Assessor. Mr. Sandstrom concluded his land value for the 11.506 acres of Other Agricultural Land at \$20,000.00 that also agreed with Respondent's land value for this parcel.

Mr. Sandstrom concluded the following values for the subject for Docket No. 57602:

Agricultural Land:	\$4,480.00
Other Agricultural Land:	\$453,380.00
Other Ag. Improvements:	<u>\$1,208,594.00</u>
Total:	\$1,666,454.00

Respondent's witness, Mr. Jeremy Maldonado, an agriculture appraiser with the Adams County Assessor's Office, presented the following indications of value:

Docket No. 57602

Cost Approach: \$2,142,992.00 for tax years 2007 and 2008.

Docket No. 57603

Cost Approach: \$601,220.00 for tax years 2007 and 2008

Respondent initially presented an assigned value of \$2,859,970.00 for Docket No. 57602 but changed that value to \$2,142,992.00 at the hearing. Respondent initially presented a value of \$704,685.00 for Docket No. 57603 but changed that value to \$601,220.00 at the hearing.

Mr. Maldonado utilized the cost approach to derive an indication of value for the subject. He placed no reliance upon the income approach or the market approach.

Mr. Maldonado relied upon the Marshall Valuation Service to derive the individual cost estimates for each of the structures detailed in Respondent's Exhibit "A" for Docket No. 57602 and Exhibit "B" for Docket No. 57603.

Mr. Maldonado provided information on the building type, year of construction, quality, exterior, class, roof cover, floor and square footage of each structure. He derived a replacement cost new per square foot for each structure by adjusting for differences in building height and perimeter and concrete area. He included adjustments of a current cost multiplier and local multiplier to account for changes in cost and locality. These adjustments resulted in a replacement cost new per square foot. He then derived depreciation for each structure based upon the Life Expectancy Guidelines provided by the Marshall Valuation Service by comparing typical life expectancy in years to the effective age in years.

For Docket No. 57602, Mr. Maldonado included information on a total of 16 structures. The structure years of construction ranged from 1965 to 2003. Improvement quality ranged from low to average plus. Rates of depreciation ranged from 8% to 64%. He concluded a replacement cost new less depreciation improvement value of \$1,726,616.00.

Mr. Maldonado referenced the Colorado Supreme Court case #02SC415, *Welby Gardens v. Adams County*, where the land value for the 21.5 acres of Other Agricultural Land was established at

\$20,000.00 per acre. He concluded a value of \$600.00 per acre for the Agricultural irrigated land. Mr. Maldonado provided two land sales that occurred in 1994. He testified that he could not find more recent comparable land sales.

Mr. Maldonado concluded the following values for the subject for Docket No. 57602:

Land Value:	\$426,376.00
Improvements:	<u>\$1,726,616.00</u>
Total:	\$2,142,992.00

Respondent assigned an actual value of \$3,166,050.00 but reduced that amount at the hearing to \$2,142,992.00 to the subject property for tax years 2007 and 2008 for Docket No. 57602.

For Docket No. 57603, Mr. Sandstrom included information on a total of five structures. The structure years of construction ranged from 1968 to 2002. Improvement quality ranged from low to average. Typical life expectancy was 25 years. Effective ages ranged from five to 38 years resulting in rates of depreciation ranging from 13% to 80%. He concluded a replacement cost new less depreciation improvement value of \$222,583.00.

Mr. Sandstrom concluded his land value at \$20,000.00 per acre. For the 4.421 acres, he concluded land value at \$88,420.00.

Mr. Sandstrom concluded the following values for the subject for Docket No. 57603:

Other Agricultural Land:	\$88,420.00
Other Ag. Improvements:	<u>\$222,583.00</u>
Total:	\$311,003.00

For Docket No. 57603, Mr. Maldonado included information on a total of five structures. The structure years of construction ranged from 1968 to 2001. Improvement quality was rated as average. Rates of depreciation ranged from 14% to 79%. He concluded a replacement cost new less depreciation improvement value of \$269,645.00.

Mr. Maldonado concluded his land value at \$75,000.00 per acre. He testified that he applied a land residual technique to develop his land value estimate but gave no documentation as to how that computation was derived. Mr. Maldonado testified that he utilized three comparable sales to support his land residual technique. The three comparable sales occurred in 1996, 1997 and 1999. For the 4.421 acres, he concluded land value at \$331,575.00.

Mr. Maldonado concluded the following values for the subject for Docket No. 57603:

Land Value:	\$331,575.00
Improvements:	<u>\$269,645.00</u>
Total:	\$601,220.00

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

The Board agreed with both Petitioner and Respondent that the land value for the Other Agricultural Land is \$20,000.00.

For Docket No 57602, the Board concluded that Respondent's appraiser provided minimal support for his land value conclusion of \$600.00 per acre. The appraiser provided no computations to support his adjustments for building height and perimeter.

For Docket No. 57603, the Board concluded that Respondent's appraiser provided minimal support for his land value conclusion of \$75,000.00 per acre. The appraiser provided no computations to support his adjustments in utilizing the land residual technique in his land valuation and for building height and perimeter in deriving replacement cost new.

The Board was not convinced that Respondent's conclusion on effective age, improvements quality and condition properly reflected the replacement cost new and depreciation of the building improvements. The Board placed greater reliability on Petitioner's cost approach, replacement cost new conclusions, depreciation conclusions and land value conclusions.

The Board concludes that the 2007 and 2008 actual values of the subject property should be reduced to \$1,666,454.00 for Docket No. 57602 and to \$311,003.00 for Docket No. 57603.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner, based on 2007 and 2008 actual values for the subject property of \$1,666,454.00 for Docket No. 57602 and of \$311,003.00 for Docket No. 57603.

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 7th day of March, 2012.



BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Lyle D. Hansen

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

Milla Orichton