

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>VELDKAMPS REAL ESTATE, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 59094</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 17, 2012, Diane M. DeVries and MaryKay Kelley presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by James Burgess, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2009 and 2010.

Subject property is described as follows:

**9501 West Colfax Avenue, Lakewood, Colorado
Jefferson County Schedule No. 050202**

The subject property consists of a 1.705 acre commercial site with multiple improvements. The primary structure is a flower shop built in 1970 with a 1971 addition (mezzanine offices and basement). An attached 1982 greenhouse, whose hail-damaged roof has been repaired, is used for storage, and its lower-level garage is used for truck shipping. A 1973 detached warehouse is accessed by a covered walkway. A detached 1970 greenhouse, whose hail-damaged roof has not been replaced, is surrounded by an outdoor garden center with temporary structures. An older motel at the rear of the site is vacant, in disrepair, and carries no value. High tension power lines and flood plains intersect the site, and eleven easements exist (utilities and a ditch among others).

Petitioner is requesting actual values of \$388,656.00 for tax year 2009 and \$336,852.00 for tax year 2010. Respondent assigned values of \$697,700.00 for tax year 2009 and \$651,060.00 for tax year 2010. The difference in tax year values reflects the condition of the detached hail-damaged greenhouse on the assessment dates.

Petitioner presented the following indicators of value:

Market:	N/A
Cost:	\$388,656.00 (2009)
	\$336,852.00 (2010)
Income	\$512,914.00 (2009)
	\$463,240.00 (2010)

Petitioner's witness, Mr. Ronald Sandstrom with F & S Tax Consultants, considered the market approach but could not identify commercial sales he felt were representative of the subject property. He did not consider this approach a reliable indicator of value.

Mr. Sandstrom presented a cost approach with land valued by classification type: Lot 1 (commercial) at \$5.00 per square foot per county land tables; and Lots 2 and 3 (other agricultural) at \$46,380.00 per acre, the stipulated value per acre by the parties in multiple greenhouse-valuation cases from 2003 through 2010. Improvements were valued per Marshall & Swift Valuation Service. Also included were costs for removing asbestos and demolishing the motel (applied to both tax years) and for the repair estimate for the attached greenhouse roof (applied to the 2010 tax year). This approach was given most weight.

Mr. Sandstrom presented an income approach in which values for the two tax years differ by the repair estimate for the attached greenhouse roof. The \$8.64 per square foot rental rate for the flower shop and attached mezzanine was the average of two county-provided net lease rates in 2009 (\$10.08 and \$7.20). The \$4.50 per square foot rental rate for the attached upper-level greenhouse/storage space and the warehouse was a county-provided rate. He did not include the basement and garage in this approach because they did not contribute to the floral business. Vacancy was estimated at 10%, and a tax-loaded capitalization rate of 11.9% was applied for a final value of \$533,714.00. The value of the parking lot across the street, owned by related entities and used for truck and employee parking, was deducted. Excess land at \$2.80 per 34,800 square feet was added, and deductions were made (hotel asbestos removal and demolition for both tax years and attached greenhouse roof repair for the 2010 tax year). The witness gave no weight to this approach due to lack of market-derived comparable rental rates.

Respondent presented the following indicators of value:

Market:	\$780,000.00
Cost:	N/A
Income:	\$675,000.00

Respondent's witness, Randall K. Brenimer, Certified General Appraiser, presented a market approach with three comparable sales ranging in sale price from \$519,800.00 to \$1,583,500.00. After adjustments were made, the sales ranged from \$647,886.00 to \$879,632.00. The witness concluded to a value of \$810,000.00 and deducted the cost of asbestos removal in the motel for a final conclusion of \$780,000.00.

Respondent declined application of the cost approach due to the age of the improvements and difficulty in determining depreciation.

Respondent presented an income approach based on rentable square feet of improvements based on a 90% factor of gross areas. The rental rate of \$13.00 for the flower shop and mezzanine was based on one property with a net rental rate of \$10.08 per square foot and adjusted to an estimated gross. Rental rates for the attached greenhouse, finished basement, and garage were based on modeling but not detailed, and the warehouse was not included. Mr. Brenimer applied a vacancy rate of 8%, operating expenses of 13%, management fees of 3%, and a tax-loaded capitalization rate of 11.9% to derive a value of \$675,000.00.

Petitioner presented sufficient probative evidence and testimony to prove that the valuation of the subject property for tax year 2009 was incorrect. Respondent presented sufficient probative evidence and testimony to prove that the valuation of the subject property for tax year 2010 was correct.

The Board has little confidence in Petitioner’s cost approach due to multiple older improvements and the complexity in determining depreciation, both physical and functional.

The Board has little confidence in Respondent’s market approach due to the dissimilarity in comparable sales and unsupported adjustments.

The Board considers the income approach to be the best indicator of value and has recalculated this approach based on data presented by the parties. Respondent’s net square footage is used, and the Board agrees with both parties that the hail-damaged detached greenhouse provides no rentable space. The 1,746 square foot warehouse not included in Respondent’s income approach is considered to have income potential and is included. Also, the Board is persuaded that both basement and garage have rentable space and has included income not addressed by Petitioner. Petitioner’s \$8.64 per square foot, better supported than Respondent’s figure, is applied, and Respondent’s vacancy rate and expenses are applied, as is Petitioner’s excess land, motel asbestos removal and demolition, and repair of the attached greenhouse roof (2010 tax year).

Flower shop	2,549 sf @ \$8.64	\$ 22,024.00
Mezzanine office	1,728 sf @ \$8.64	\$ 14,930.00
Attached greenhouse (storage)	4,129 sf @ \$4.25	\$ 17,548.00
Basement	2,549 sf @ \$6.00	\$ 15,294.00
Garage	4,129 sf @ \$4.25	\$ 17,548.00
Warehouse	1,746 sf @ \$4.25	\$ 7,421.00
Potential Gross Income		\$ 94,765.00
Vacancy rate	10%	\$ 9,477.00
Expenses	16%	\$ 15,162.00
Net Operating Income		\$ 70,162.00
Capitalization rate		11.9%

Value of Improvements	\$589,294.00
<u>Plus:</u>	
Excess land (34,800 sf @ \$2.80)	\$ 97,440.00
<u>Less:</u>	
Motel – asbestos removal	\$ 30,110.00
Motel – demolition	<u>\$ 30,230.00</u>
Value by Income Approach for tax year 2009	\$626,394.00
<u>Less:</u>	
Cost of repairing attached greenhouse roof (2010 tax year)	<u>\$ 49,674.00</u>
Value by Income Approach for tax year 2010	\$576,720.00

The Board concludes that actual value for tax year 2009 should be reduced to \$626,394.00. The assigned value for tax year 2010 should be reduced to \$576,720.00.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2009 actual value for the subject property of \$626,394.00 and on a 2010 actual value of \$576,720.00. 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).

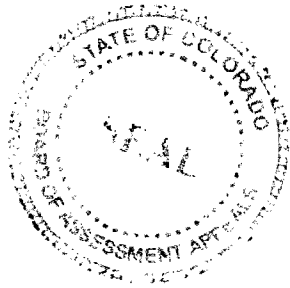
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of 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 15th day of March, 2012.



BOARD OF ASSESSMENT APPEALS

Diane DeVries

Diane DeVries

MaryKay Kelley

MaryKay Kelley

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

Milla Crichton

Milla Crichton