

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROARING FORK CLUB,</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF COMMISSIONERS.</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 E-mail: Attorney Reg. No.: 6941</p>	<p>Docket Nos. 36961 and 36962</p>
<p style="text-align: center;">ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 24, 2001, Karen E. Hart, J. Russell Shaw and Debra A. Baumbach presiding. Petitioner was represented by William McLain, Esq. Respondent was represented by John Ely, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

BLK 1 LOTS 4, 8, 12, 14-16, 18, 20, 21 A PARCEL OF LAND SITUATED IN TRACTS 53-58 OF TWN 8 S RNG 86 W OF THE 6TH PM; BLK 2 LOTS 2, 3, 10, 16-18, 20, 21, 23-29, FL (Pitkin County Schedule Nos. R006911, R016493, RO16497, R016501, R016503, R006507, R016509, R016510, R016512, R016513, R016520, R016527, R016528, R016530, R016531, R016533-39, R016542, R016546, R016547, R016550-52, R016559-62, R016569-72, R016583, R016605-09, R016615-19)

Petitioner is requesting an abatement/refund of taxes (in the amount of \$149,450.73.) on the subject property for tax years 1997 & 1998. The subject property consists of a newly developed non-equity club, golf course, and fishing community. The subject is located on approximately 300 acres. The parcel in concern is Schedule No. R01643, Block 1, Lot 4. This parcel consists of approximately 126 acres for tax year 1997. The parcel in concern for 1998 is Schedule Nos. R016493, R016513 & R0165412.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued. The Respondent has valued the parcel as a PUD and not a golf course for tax year 1997. For tax year 1998, the income approach is the most appropriate measure. Due to the limited sales and aggressive adjustments that would have to be addressed, the market and cost approaches were not considered to be most appropriate indicators of value. Not all of the factors influencing the subject property were considered.

Respondent:

Respondent contends the subject property has been correctly valued based on the market approach. The income and cost approach were not considered to be applicable to this property for tax year 1997. For tax year 1998 tax year, the use of the property changed and the cost approach was considered to be the most accurate approach.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Thomas McElhinney, Tax Profile Services, Inc., presented the following indicators of value for tax years 1997 and 1998:

Tax Year 1997: \$320,000.00 based on other Pitkin County golf course
assigned assessor land values
or \$615,000.00 based on the assessor's 1998 land value.

Tax Year 1998: \$2,300,000.00 to \$2,400,000.00 based on the cost approach.

2. The Petitioner testified that he relied on other golf course values, not actual sales. The Petitioner presented four vacant land sales ranging in sales price from \$1,400,000.00 to \$16,500,000.00. The price per acre ranged from \$3,298.72 to \$16,538.46, and the acres ranged from 520 to 938. There were no adjustments made to the sales. The Petitioner did not present the cost or income approaches.

3. Mr. McElhinney testified that the subject property is a non-equity club, golf course, and fishing community situated on approximately 300 acres. There are 45 residential cabin sites, a fishing lodge, and approximately 92% of the land described as open space. This is not a common-element community. There is a large degree of open space in ratio to the building sites. The residential sites have no excess land around them and represent a building footprint only. There is a common parking facility for residents, personal vehicles are prohibited, and golf carts are utilized for transportation around the facility.

4. Mr. McElhinney testified that the golf course is bisected by Highway 82 and the Roaring Fork River. The north parcel consists of approximately 126 acres, and the south parcel consists of approximately 157 acres. The project was in the state of development during the years of 1997 and 1998. There were many costs associated with the development that are not typical of a golf course community. There is a dual water system that works off the sewage system. The sewer system is not connected to the City of Basalt. The golf cart paths are overbuilt and must comply with city regulations for emergency vehicle access.

5. The witness testified that contract negotiations for the purchase of the parcels were lengthy and contained many contingencies. The north section contained four parcels that were contingent upon the annexation to the Town of Basalt, the approval of the development, assemblage, absolute right to terminate, and the purchase and sale of adjacent property. The parcels sold in August 1996; one parcel sold after the base period with some additional differences from the original contract. The annexation was public and property notice was announced. Construction began in August 1996 after the closing.

6. Mr. McElhinney testified that the south parcel consists of 157 acres with 28 cabin sites, a fishing lodge, and an administration building. The Roaring Forks River runs through the property. The south portion became accessible with construction of an underpass to support the golf community. There is an abandoned railway that runs through the center of the parcel.

7. Mr. McElhinney testified that he believes the subject should have been valued as a golf course and not a Planned Unit Development during the base period, since contracts were entered into during the tax base year.

8. The witness testified he believes the value should be \$2,600.00 per acre as a golf course for 1997, and no more than the \$5,000.00 per acres as in 1998. Other courses in the area were not valued at this amount. The \$2,600.00 per acre seems more reasonable. In 1998, seven holes were 60% complete, the south side 11 holes were 10% complete.

9. Mr. McElhinney testified there were other non golf course related expenditures that are atypical of other golf courses in the area. There was \$1,000,000.00 spent on the enhancement of the Roaring Forks River for public use, and another \$1,000,000.00 for the bio-islands/aquatic habitat enhancement. A private water system and private sewer system had to be implemented. The underpass and private access roads to accommodate emergency vehicles were constructed by the Petitioner. Employee housing had to be provided. Additional landscaping and relocation of irrigation ditches were needed. The final cost figures provided by Wadsworth Golf Construction

Company totaled an estimated \$8,471,234.43. Typical cost usually would run around \$5,500,000.00. During the years of 1997 and 1998 there were no vertical improvements to the subject.

10. Under cross-examination, Mr. McElhinney testified the purchase price of the subject prior to the assessment in 1997 was \$3,300,000.00. The actual closing took place outside of the valuation period. The contracts, however, were signed and in place during the valuation period. The preliminary plat for the development was not approved in 1997.

11. Mr. McElhinney indicated that not all of the costs were included in the Wadsworth contract. The infrastructure work done by Earthworks, as well as the Jack Nicklaus design license were not included. Some of the landscape issues were not included as well.

12. In response to questions from the Board, the cost of non-related items were estimated by Mr. McElhinney to be around \$20,000,000.00 including the buildings. The golf course comprised approximately \$10,000,000.00 of the total. The overall recapture of the investment is based upon the sales of the real estate.

13. Petitioner's witness, Mr. Russell Hughes, Hughes & Company, testified he is involved in analyzing and appraising golf courses. In his opinion, the most appropriate approach to value is the income approach for new facilities. The cost approach is limited based on special issues and adjustments that would have to be addressed. There can be functional inadequacies that would increase operating costs. Functional inadequacies of the subject property include additional costs for grass cutting and maintenance due to increased driving time, as the golf course is divided by the highway. The market approach would require aggressive adjustments, and there are limited sales comparables.

14. Mr. Hughes testified he analyzed the cost portion attributed to the residential section. He describes the subject as a unique golf community. Typically there are many more residential sites located around the golf course of this nature. The subject has only 45 residential sites, which is conservative with respect to other golf communities. Of the 45 sites, 30 are located on the golf course and 10 are adjacent to the golf course. It was estimated that the 30 golf lots located on the golf course had a value of \$200,000.00. The residential sites sold for \$180,000.00 to \$385,000.00 with the average lot selling for \$271,000.00. Other factors affecting the amenity value for non golf views that would elicit any premium, irregardless of the golf course would need to be addressed. This was calculated somewhat subjectively and conservatively. The base lot was estimated to be \$125,000.00. It was estimated that 60% was considered to be golf premium, in the studies that have been done. There have been golf premiums ranging from 50% to 100%. The 60% premium was applied to the 30 golf lots and the golf view lots were estimated at 25% premium. There was a total of 2,500,000.00 and discounted to \$2,000,000.00. This \$2,000,000.00 deducted in the cost approach as external obsolescence.

15. Mr. Hughes testified the income approach is the most appropriate method of valuation for the subject. The subject was viewed as if it operated as a "daily fee basis," there would be less revenue and higher expenses due to the shorter golf season.

16. Mr. Hughes further testified that generally it is rare to have a private club valued in excess of \$10,000,000.00. Generally upscale golf course sales run approximately \$5,000,000.00 to \$6,000,000.00.

17. Under cross-examination Mr. Hughes addressed the value transfer component of \$2,000,000.00. The amount is deducted from the golf course costs as external obsolescence. He feels the income approach is still the most appropriate method of valuation for completed as well as incomplete golf courses. There was no appraisal performed on the subject. There was no detailed sales analysis of properties outside the Roaring Forks area, although he was cognizant that there were other factors effecting lot values.

18. During rebuttal testimony, Mr. Hughes testified the subject has a Jack Nicklaus signature design at a cost of \$1,000,000.00. There is some value attributed to having a design signature. It will enhance membership costs and lot values. Other top design signatures might only cost \$300,000.00. The fees are considered to be an intangible item in the income approach.

19. Petitioner is requesting a 1997 actual value of \$320,000.00 or \$615,000.00 for the subject property. Petitioner is requesting a 1998 actual value of \$2,300,000.00 to \$2,400,000.00 for the subject property.

20. Respondent's witness, Mr. Larry Fite, an appraiser for the Pitkin County Assessor's Office, presented the following indicators of value for tax year 1997 and 1998:

1997	1998
Market: \$3,260,100.00	Cost: \$4,185,000.00

21. Respondent's witness presented 7 comparable land sales of vacant, raw land with no current development ranging in sales price from \$107,900.00 to \$5,300,000.00 and in land size from 101.12 acres to 414 acres. After adjustments were made, the sales ranged from \$120,300.00 to \$5,300,000.00. The cost per acre ranged from \$5,423.00 to \$105,997.00. For tax year 1997, the market approach was considered to be the most appropriate indicator of value.

22. As the subject was still under construction for tax year 1998, the cost approach was considered to be the most appropriate indicator of value. Vacant land sales and construction cost information provided by the developer were the basis of the indicated value.

23. The Respondent testified for tax year 1997 the subject existed as vacant land. The market approach was exclusively relied upon. The purchase of the subject parcels was the best indicator of value for the subject property. The parcels were under contract well within the statutory data collection time period. The values were based on recorded document fees.

24. The witness testified the cost was approximately \$27,000.00 per acre. The subject was not platted and consisted of four parcels. The sales price for the four parcels totaled \$3,445,600.00. The contracts were contingent upon the annexation into the Town of Basalt and the development plan approved.

25. Mr. Fite testified the key issue in the valuation was the condition in 1997. The property was four separate annexed parcels. The parcels were not platted and did not exist as an actual golf course. To apply a golf course value was considered to be inapplicable.

26. Mr. Fite testified as a result of the final plat, the four parcels were merged and the values prorated among the newly created parcels. The new parcels were valued at the same value per acre as the original parcel.

27. Mr. Fite testified construction was in process when he inspected the subject on October 17, 1997. The north side was approximately 60% complete, there were several fairways grassed in, the tee boxes set and the cart paths were graded but not paved. There are 7 holes, practice area, and putting green. The south side there were 11 holes remaining in the process of being built; the areas was in the process of being rough graded and was approximately 10% completed.

28. Mr. Fite further testified that for tax year 1998, the intervening year, the use of the subject changes. The subject had now been platted and the installation of on-site improvements. The cost approach was considered to be the most appropriate indicator of value. The market approach was not considered due to the limited viable sales available. The income approach was not applicable; the subject was not completed and there was no projected income for consideration.

29. Mr. Fite discussed the methodology utilized in the valuation process. The Division of Property Taxation guidelines for valuation of golf courses was referred to. The land value was calculated by using land sales in the area similar in use. He reviewed sales in the area that sold as open space and no approvals in place. The land value was assigned \$5,000.00 per acre. Sale #1 was a working ranch, near a road 18 miles from the subject, most weight was placed on this sale. The improvement costs came from Wadsworth Construction Company. There was 35% deducted from the original contract amount for non-golf infrastructure. Then other construction costs were added in including; Jack Nicklaus design name, Earthworks for the underpass and road to clubhouse, landscaping and miscellaneous consultant fees for bio-islands, irrigation and aeration systems. The total golf course construction cost of \$9,071,952.00 was divided by 18 holes, which equals \$503,997.00 rounded to \$504,000.00 per hole. This figures was divided by the percentage of completed area.

30. Mr. Fite presented an indicated value based on the cost approach of land value; \$1,419,140.00, improvement value \$2,766,200.00, for a total of \$4,185,340.00 or rounded \$4,185,000.00 for 1998.

31. Mr. Fite testified he accounted for the value transfer aspect. He felt that the value was transferred to the residential areas surrounding the golf course; however, referring to the DPT guidelines for golf course valuation, it does not represent a direct value loss to the golf course. The value of the golf course should be separately established.

32. Under cross-examination, Mr. Fite testified that he did not use the land value of \$5,000.00 per acre for the 1997. The contracts were in place; however, there was no official approval. The subject was vacant land as of the assessment date. The county relies on the platted documents as a basis point.

33. Respondent assigned an assessed value of \$999,250.00 for tax year 1997, and an actual value of \$2,454,620.00 for tax year 1998.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the tax years 1997 and 1998 valuation of the subject property was correct.

2. The Board has carefully considered all admitted evidence and testimony and has affirmed the Respondent's value for tax years 1997 and 1998. The Petitioner raised the issue of the valuation of the land value in 1997. The Petitioner testified that the contracts were in place during the valuation period and should be valued as a golf course not a PUD. He believed the land value should be \$2,600.00 per acre, but no more than the \$5,000.00 per acre value in 1998.

3. The Board found that the vacant land sales presented by the Petitioner's witness in his exhibit were not adjusted for physical characteristic differences, and not sales dates were provided. All the presented sales represent a higher value range. The value per acre concluded by the witness was based on other golf courses values, not any actual sales. Therefore, the Board could give little weight to the Petitioner's land value conclusions.

4. The Board agrees with the Respondent that the subject property was properly classified as vacant land as of the assessment date, even though the purchase contracts were in place. There were many contingencies stipulated in the contracts that could have changed the overall outcome of the change in land classification, and the actual closing transpired after the valuation period. The Board agrees with the Respondent's value conclusion for tax years 1997 and 1998.

5. The Board could give little weight to the Petitioner's adjustment analysis for external obsolescence in the cost approach, relating to the value transfer. There was insufficient information presented regarding the determining factors effecting any needed adjustment. There was no appraisal performed on the subject and no detailed analysis provided for the Board's consideration. There was insufficient information provided in relation to the impact the additional costs might have on any adjustment.

6. The Board agrees with Petitioner's witness, Mr. Hughes, that there may be a value transfer attributed to the residential sites from the golf course. The Board also heard testimony that there are atypical costs associated with the construction of the subject property that would not necessarily be reflected in the costs of other similar golf courses. The recapture of the investment is based upon the sale of the real estate. The Board does not agree there was sufficient evidence and testimony presented to establish if any direct loss to the golf course could be attributed to the subject property as a result of the value transfer. The Board also heard testimony that the lot premium was calculated somewhat subjectively. The Board does not agree that there was sufficient evidence and testimony presented to establish if any direct value loss could be attributed to the subject property as a result of the value transfer. The Board was not persuaded by the limited information provided that an accurate adjustment for a value transfer could be determined, if warranted.

7. The Board concurs with the Respondent that the value transfer aspect was accounted for within the 1998 valuation. The value transfer from the golf course to the residential sites could be attributed in value from sales of the residential sites.

8. The Respondent presented a well documented and reasonable supported value conclusion for tax years 1997 and 1998.

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 the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not make the aforementioned recommendation or result of Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

DATED and MAILED this 31st day of May, 2001.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

This decision was put on the record

MAY 31 2001

J Russell Shaw
J. Russell Shaw

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

Debra A. Baumbach
Debra A. Baumbach

Diane Von Dollen
Diane Von Dollen 36961.36962.01

