

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>COUNTRY CLUB OF THE ROCKIES,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>EAGLE COUNTY BOARD OF EQUALIZATION.</b></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: wamclain@aol.com Attorney Reg. No.: 6941</p>	<p><b>Docket Number: 38091</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 9, 2002, Mark R. Linné, Steffen A. Brown, and Karen E. Hart presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Diane H. Mauriello, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Eagle County Schedule No. R017834, R018128, R020829, R020827, R020825, R041296, R018626, R039689, R020833, R018333, and R020826**

Petitioner is protesting the 2001 actual value of the subject property, an 18-hole, non-profit golf course designed by Jack Nicklaus and located in Edwards, Colorado.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property is overvalued. Petitioner's witness used both the income and cost approaches to value. The major difference in the cost approaches presented is the land value. The subject land is restricted to golf course use only. Respondent's income approach is based on data from outside the data collection period.

### **Respondent:**

Respondent contends that the subject property was correctly valued using the income and cost approaches. The subject property is a non-profit, Jack Nicklaus designed course and is not comparable to a daily fee course. Petitioner's witness prepared only a limited appraisal report and did not use the correct land value in his cost approach. Petitioner's cost per hole is unreasonably low. Respondent's valuation is well supported by market-extracted data

## **FINDINGS OF FACT:**

1. Petitioner's witness, Mr. David H. Daniels, MAI, a Colorado Certified General Appraiser and part owner of Daniels-Emmerling Real Estate Services, LLP, testified that he focuses in golf course appraisals and has valued approximately 20 golf courses in the past. Golf courses are primarily valued using the income approach. They consider the market approach but there are few sales in Colorado. The cost approach is used as a test of reasonableness.

2. Mr. Daniels presented the following indicators of value:

Cost:	\$5,900,000.00
Income:	\$5,670,000.00

3. Mr. Daniels testified that the subject property is an 18-hole private country club designed by Jack Nicklaus and is approximately 206.94 acres in size. It is a non-profit corporation. He believes it can be looked at as a daily fee course, or by use of the current income and expenses. He used the daily fee methodology; he thinks this is how an investor would look at it. Primary income for a country club is through dues; to make a profit you would have to increase dues over 50% and would lose membership. Many members joined the club when it was first built and were given a membership with the purchase of a lot as a promotional item. For these reasons he did not attempt to do an income and expense reconstruction.

4. The golf course was built as an amenity to sell the residential lots. There is a premium included in the residential real estate for the golf course. The initiation fee was waived for approximately 200-230 members. You can arrive at a pure value by looking at it as a daily fee, similar to the Sonnenalp Resort course, which is located near the subject. Current expenses are higher than what a daily fee course would be; the expenses are at a maximum.

5. Petitioner's witness did not apply the market approach. Those golf courses in Colorado that have sold were front-range courses and would not have been used to value a mountain course, as they are not comparable. Mountain courses operate from May to September. Daily fee courses in the front-range are open year round; climatic conditions, grasses, maintenance, and labor costs all vary when compared to mountain courses. The high season for mountain courses is July and August. The front-range high season is from May to September.

6. Petitioner's witness presented an income approach to derive a value of \$5,670,000.00 for the subject property.

7. There are six primary sources of revenue for golf courses; green fees, cart fees, practice range, food and beverage, pro shop, and miscellaneous revenues. He used eight courses that he felt would be most comparable to the subject property if it were a daily fee course. The high season green fees vary from \$65.00 to \$150.00; low season rates range from \$45.00 to \$65.00. The subject property play is approximately 10,200 rounds. He concluded to a weighted fee of \$121.25 per round for the subject property at 17,000 rounds for a mountain course.

8. Mr. Daniels testified that he used \$8.00 per round for pro shop revenue. Food revenue is based on a lease at \$5.00 per round. He used 2% of green fee revenue for miscellaneous revenue, based on similar courses. The total revenue was \$2,323,475.00.

9. Mr. Daniels testified that he adjusted the club's current expenses, as there would be lesser expense if it were a daily fee course. He used a total expense of \$1,461,470.00. He compared the actual expenses to other similar courses and arrived at an expense ratio that fit within the typical operating ratio of a high-end daily fee course. The ratio was 63% without including real estate or personal property taxes.

10. He took a deduction of 2% for reserves. He applied 10% for a return on personal property. The net operating income was \$806,265.00.

11. Mr. Daniels testified that he used an 11% capitalization rate based on published rates for golf courses. He also compares this rate to typical commercial property cap rates, which are generally lower as there is less risk involved in these types of properties versus golf courses. He used an effective tax rate of 2%.

12. Mr. Daniels then deducted the personal property and removed the business value, as allowed in the DPT course material. The indicated value was \$5,667,305.00. He was not provided with a personal property list. He used 5.6% for the personal property value. His management fee came from DPT course material; there are numerous management companies that charge a fee to operate a golf course. The business value is dependent upon the type of course.

13. Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of \$5,900,000.00.

14. He did not arrive independently at a land value; he used the county assessor's assigned land value. The zoning restricts the land use to a golf course or recreation use only. This land cannot be converted to another use.

15. The course was built to be the centerpiece to the residential development; the property was over-improved. The developers spent more money than was necessary for the prestige factor. Depreciation is difficult to determine for the cost approach; bunkers, greens, and new technology require upkeep and replacement.

16. He performed a value transfer analysis for the land value of lots on and off the course. There are premiums for locations on or near the golf course. He concluded to a land value of \$8,400.00 per acre.

17. Mr. Daniels used Marshall Valuation Service to develop a cost approach as a check of reasonableness for the income approach. The course was built in 1984; his cost figures are from the appropriate base year. It is difficult to determine depreciation for golf courses. He also reviewed recent actual golf course construction costs of other courses.

18. Exhibit C is the by-laws, rules, restaurant lease, base period data, quality ranking, and subdivision and clubhouse layout of the course. They are part of the records he reviewed for the preparation of his appraisal.

19. Mr. Daniels concluded to a value of \$5,700,000.00 for the subject property.

20. Under cross-examination, Mr. Daniels testified that his appraisal client was Tax Profile Services. He used the assessor's land value and made adjustments. He was not aware that the assessor subsequently updated the land values. He used a daily fee course analysis. He did not use information from other private courses as he found that daily fee courses are similar to non-profits. He could not use the subject property's actual data, as it is a non-profit course. The club memberships are capped at 350. He could have valued it as a non-profit course and looked at membership dues and transfer fees, etcetera. He typically looks at a course's existing operation and compares it to a daily fee course. He normally would compare fees, revenues, rounds, and etcetera to value a course as a for-profit country club.

21. Under cross-examination, Mr. Daniels testified that the Highest and Best Use is the actual use as a non-profit course. Although it is not a daily fee course, it is a way to analyze a non-profit course. The clubhouse condition is fair. It is an older clubhouse, it is not an open design; it is dark and a cookie cutter type and is not desirable. He did not conduct a thorough inspection of the property for a condition analysis; he only did a general walk-through. He discussed the value theory transfer in his report at Mr. Monroe's request; it is not a big issue in the cost approach. It causes him to generally value the land at the lower end of the value range. His report is a quick review of the course value and is not an in-depth value report.

22. Mr. Daniels testified that the cost approach is used as a value check and is also used for newer courses. He has reviewed the DPT course materials and has not attended the class. He looked at land sales at the assessor's office and reviewed public records. The pro shop at the subject property is not leased. His pro-shop revenue is based on other courses' income and

lease reviews. He deducted the management fee as an expense and also as part of the business expense.

23. Mr. Daniels testified that the Country Club of the Rockies' fee charge for an unaccompanied guest is \$175.00, which is higher than a daily fee course. He used a 30% downward adjustment to the assessor's land value for the golf course premium. He admitted that the Eagle County premiums are actually in the low teens. His costs on page 20 of his report include the design fees in the "Golf Course Improvement" section. His depreciation of 30% is an estimate based on typical depreciation of cart paths, bunkers and greens, etcetera for golf courses of the subject property's age.

24. Mr. Daniels testified that there is a premium for being located in the Arrowhead community regardless of the location of the property. It is near the ski slopes and Bachelor's Gulch. Golf courses are typically built today to sell real estate. In most cases, there is no other use for the land. Land value is not a consideration for a potential purchaser.

25. In redirect, Mr. Daniels testified that his value is unbiased and is for property tax purposes. The value of the clubhouse indirectly relates to the dues and membership fees that can be charged. He does not agree with the DPT golf course class materials, page 2.1, regarding the cost approach being the best valuation method for non-profit private courses, other than he pointed out it says "may" be the best indicator of value. Neither does he agree with the DPT course materials on page 2.2, which indicates that the cost approach may be what is left if there are insufficient golf course sales and if the operation produces little or no net income; he believes it is not reflective of market participation. Regarding the unaccompanied guest fees, it would not apply to the full amount of rounds played at the subject property. He assumes that the \$175.00 is a high season fee and only half of the rounds would be at that rate. He determined a weighted greens fee at high season, twilight season, junior, etcetera rates. The change in the assessor's land value might change his value conclusion. He reiterated that the costs in Respondent's Exhibit 1, page 23 included costs of the clubhouse and land.

26. Upon questioning by the Board, Mr. Daniels testified that he typically does not include entrepreneurial profit, as it is included in the price of the residential real estate. If a golf course goes bankrupt, it is unlikely that it would be developed with housing units. It would be difficult to have a daily fee operation without support from land sales. His ad valorem value is with a deduction of business value and a higher cap rate for property taxes; a market value would include these as well as personal property. The country club has salaries for the golf pro and other expenses that are not usually included in pro shop expenses.

27. Petitioner is requesting a 2001 actual value of \$5,700,000.00 for the subject property.

28. Respondent's witness, Mr. E. Nelson Bowes, MAI, CRE, PE, a Colorado Certified General Appraiser with the firm of Messick Bowes, presented the following indicators of value:

Cost:	\$10,290,000.00
Income:	\$ 9,230,000.00

29. Respondent's witness did not present an indicated value via the market approach as he could not locate a good sale.

30. Mr. Bowes inspected the subject property's clubhouse and did a perimeter course inspection. His complete appraisal was for a market value as of June 30, 2000.

31. Mr. Bowes testified that the photos in Tab 8, Exhibit 3 depict the subject property as of the assessment date. This is a nice golf course. The Highest and Best Use is as a country club. There is good regard for the subject in the area and good demand for play at the course. He does not think that a daily fee course is the same use as a county club; it implies a different ambiance and clientele; it is a different product. He believes a non-profit country club can have the income statement reconstructed as though it were for profit.

32. Mr. Bowes testified that golf courses in ski counties are a post 1960 phenomena. He studied the time line of the construction of the 11 courses in Eagle County. Location is most important to golf valuation. He does not believe that the market is overbuilt or saturated in Eagle County as it is in Denver as of this time.

33. Mr. Bowes testified regarding various course comparisons regarding initiation fees, monthly dues, green fees and yearly rounds. The fees are substantially larger in Eagle County versus the Denver area. He studied various physical characteristics and discovered that the degree of difficulty, natural surroundings, and mature landscaping are not related to the initiation fees or greens fees.

34. Mr. Bowes testified that it is not unique for the golf course value to be less than cost; they are amenity packages.

35. Mr. Bowes testified that it is preferred to not omit sales information. He believes that the appropriate approach is where there is consistent information from the market place. He believes that the cost approach is most appropriate to the subject. Business value may be part of the real estate value; market value assumes competent management.

36. Mr. Bowes testified that Integra/Farber surveys capitalization rates and they can be used when there are no sales, however the numbers arrived at do not often work mathematically.

37. Mr. Bowes testified that the appropriate depreciation rate of the subject property should be 64%. Historically, he talks with other real estate consultants, country club owners, and managers of golf courses to assist with his determination of depreciation. His opinion is that a golf club course is worth 30-40% of the cost plus the value of the land. As clubs age, they are maintained, added on to, upgraded, etcetera and age is not a significant factor. The designer, type of courses, slope, etcetera, all sell for 30 to 40 cents on the dollar plus the land. He applied a 10% capitalization rate, after study and analysis of surveys and discussions with Mr. Fowler, the Hiwan Private Golf Club owner, and Mr. Sparks, an analyst of country clubs.

38. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$10,290,000.00.

39. Mr. Bowes testified that he looked for land sales of larger parcels. He studied 8 land sales, ranging in sales price from \$4,971.00 to \$45,141.00 per acre and in size from 78.643 acres to 1,708 acres. After adjustments, the sales price range was \$7,890.00 to \$39,900.00 per acre. He inspected each site and analyzed the access, surroundings, beauty of the area, remoteness, neighboring properties, and etcetera. He considered sales 5 and 6 to be most similar to the subject. The sales price is affected by size; the larger the parcel the lesser price per acre. He adjusted the sales prices for size to be comparable to the subject. He also looked at location and determined a land value of \$22,000.00 per acre, for a total land value of \$4,552,900.00.

40. Regarding the cost approach for the improvements, he looked at reproduction costs first. He used costs per acre or hole for total cost of \$10,838,800.00 and then added overhead and Jack Nicklaus design costs. His cost figures came from comparable data of four facilities from which he has collected data for the base year period. His costs did not include the land or the clubhouse. His cost per hole was \$745,704.00 excluding the land and clubhouse values. Mr. Daniels' \$275,000.00 per hole is not possible.

41. Mr. Bowes testified that he used Marshall Valuation Service, Class D for the clubhouse costs. His concluded total cost value was \$10,290,000.00. There is data that supports all the numbers he used for the approach.

42. Respondent's witness used the income approach to derive a value of \$9,230,000.00 for the subject property.

43. He considered the course as a for-profit club. He compiled the subject dues, green fees, and initiation fees and noted that the subject dues and fees fall within the range of comparable course rates. Regarding his income pro-forma on page 28 of his report, he was considering the economic conditions that existed as of June 30, 2000. Mr. Bowes testified as to the differences between 1999 and 2000 income information; the 1999 income is around \$100,000.00 lower. The use of 1999 figures would raise the indicated value conclusion via the income approach. Regarding the interest income, Mr. Bowes testified that dues are escrowed and then repaid. He tried to determine the escrow amount as of June 30, 2000 for purposes of determining interest income.

44. Mr. Bowes concluded to a value of \$10,290,000.00, based on the cost approach.

45. Mr. Bowes disagrees with Mr. Daniels' condition of fair for the clubhouse. He believes the clubhouse should be rated better than fair. Regarding Mr. Daniels' Highest and Best Use, he agrees that it should be as a country club. Mr. Daniels valued it as a daily fee course, which is a different use. He also disagrees that the income approach cannot be developed; if it is considered for-profit, there is sufficient data to conclude an income value. He also disagrees that most weight is given to the income approach. He reviewed Mr. Daniels' information on page 16 of his report; pro shop and food and beverage leases are based on a per-hole cost and he has never seen that. There is a lease for the subject restaurant and it is not based on a per hole amount. He thinks that the lease and expenses for the pro shop are inconsistent. He pointed out the management expenses were taken as a deduction in the expenses and therefore the capitalized income is net of the business; the business value deduction at the bottom is actually an addition, the removal again is a double deduction.

46. Regarding the value transfer, Mr. Bowes testified that it is measured as external obsolescence in golf courses and is very real, but it does not matter as the value is for what is left after the value transfer. However, you cannot take a specific number and remove it as value. If there was a value transfer it does not matter to the course itself; how much is not important. Regarding the chart on page 18 of Mr. Daniels report and the 30% reduction, he would not leave the “valley” for the data if he could avoid it.

47. Regarding the cost approach on page 20 of Petitioner’s Exhibit A, he believes the depreciation factor should be 64%, not 33%. He believes that it is impossible to build a golf course for the cost of \$275,000.00 per hole. Mr. Bowes varies from Mr. Daniels in the square feet below grade of the clubhouse.

48. Under cross-examination, Mr. Bowes testified that ideally you use sales to derive the capitalization rate. His cap rate came primarily from the Integra/Farber report. Comparables 1, 7 and 8 were different uses. Sales 2 and 4 were zoned agriculture. Sale 5 was purchased with a stipulation that it would be rezoned and has home sites. Sale 6 was sold as is. Sales 2 thru 6 had various degrees of water rights included; he did not adjust them for the water rights. Regarding the interest income on page 28 of his report, he estimated the amount based on an escrow of the initiation fees, using \$25,000,000.00 in a bank account. He admitted that the subject did not generate that much interest income in 1999. He believes the initiation fee is refundable.

49. On redirect, Mr. Bowes testified that he does not know where the DPT’s 2% for management from the course materials came from; they not mandated to appraisers to be followed. Water rights could impact the sale price if they are significant; development rights would not. Regarding the interest income of \$1,250,000.00, he is valuing a fee simple interest; the fees are given to Arrowhead and he does not know what the actual amounts are based on. He valued them as though they were a private club and would keep the escrow.

50. Respondent assigned an actual value of \$7,980,440.00 to the subject property for tax year 2001.

## **CONCLUSIONS:**

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2001.

2. The Board was not convinced by Petitioner’s witness that the use of information from “daily fee” golf courses would be comparable to the subject property, which is a private course. A “daily fee” course attracts a different clientele than a private course. The subject property is a signature golf course with an ambience and location that would be inconsistent with “daily fee” courses. The Board believes Petitioner’s determination of the Highest and Best Use of the subject property as a private course, yet use of comparative data as a “daily fee” course, is in conflict. Colorado Revised Statutes require that properties be valued for ad valorem purposes according to their actual use. We believe that a classification of the subject property as a “daily fee” course is speculative in nature and not a reasonable future use. Therefore, the actual use of



the subject property as a private course must be the basis for the subject property valuation. For these reasons, the Board gave no weight to Petitioner's income approach.

3. However, Petitioner was successful in pointing out flaws in Respondent's report as well. In his income approach, Respondent's witness did not use 1999 data and relied upon the full calendar year 2000 income and expense data of the subject, which went beyond the base period date of June 30, 2000. Additionally, the witness admitted that his interest income was based on estimated amounts and was a larger amount than was actually achieved by the subject property. For all these reasons, the Board gave no weight to Respondent's income approach.

4. The Board also could give little weight to Petitioner's cost approach. Petitioner admitted that he did not independently derive a land value for use in his approach. He relied upon the assessor's assigned land value, which was shown to be from a previous base period and therefore would not be an appropriate value to rely upon for this hearing and base period. Additionally, the Board was convinced by Respondent's witness that Petitioner's non-depreciated value of \$275,000.00 per hole for the golf course improvements was unreasonably low for a mountain course. Furthermore, the Board was not convinced that the depreciation deduction for the golf course improvements was correct.

5. The Board was most persuaded by Mr. Bowes' cost approach. Mr. Bowes' cost approach calculations were well supported for both land and improvement values. However, the value conclusion was higher than the assigned value and the Board has no authority to increase the Respondent's assigned value.

6. After careful consideration of all the evidence and testimony presented, the Board affirms Respondent's assigned value of \$7,980,440.00.

### **ORDER:**

The petition is denied.

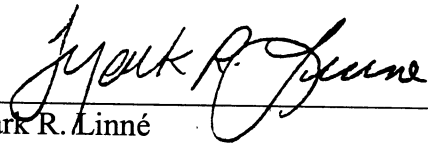
### **APPEAL:**

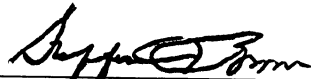
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.


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

DATED and MAILED this 11 day of July, 2002.

**BOARD OF ASSESSMENT APPEALS**

  
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Mark R. Linné

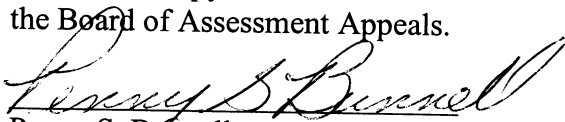
  
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Steffen A. Brown

  
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Karen E. Hart

This decision was put on the record

JUL 11 2002

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

  
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Penny S. Bunnell

