BOARD OF ASSESSMENT APPEALS, **STATE OF COLORADO** 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **LAKEWOOD COUNTRY CLUB,** v. Respondent: **JEFFERSON COUNTY BOARD OF EQUALIZATION.**	
Attorney or Party Without Attorney for the Petitioner: Name: Richard G. Olona, Esq. Address: Olona & Associates, P.C. 2525 Sixteenth Street, Suite 225 Denver, Colorado 82011 Phone Number: (303) 433-1699 E-mail: olonalaw@aol.com Attorney Reg. No.: 17940	**Docket Number: 39602**
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on April 8, 2003, Rebecca A. Hawkins and Debra A. Baumbach presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Lily W. Oeffler, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

6800 West 10th Avenue
(Jefferson County Schedule Nos. 110117 and 110119)

Petitioner is protesting the 2001 actual value of the subject property. The subject improvements include an 18-hole golf course, practice range, chipping and putting green, pool, wading pool, pool, clubhouse, tennis courts and maintenance facilities. The total land area consists of approximately 120.97 acres.

ISSUES:

Petitioner:

Petitioner contends that the subject property has been overvalued. The Respondent has valued the subject property entirely on the cost approach, indicating a much higher value range. The land sales used by the Respondent are not the best comparable sales and were not adjusted for any differences in characteristics.

Respondent:

Respondent contends that the subject property has been correctly valued, using the cost and market approach. The Petitioner presented an older appraisal with dated sales. The appraisal was preformed for lending purposes only. The appraisal presented supports the assigned value and any adverse factors affecting the overall value.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Kenneth W. Bruce MAI, CRE with Burke Hansen, Inc., presented the following indicators of value:

Market:	$5,200,000.00
Cost:	$6,275,000.00
Income:	$3,640,000.00

2. Based on the market approach, Petitioner's witness presented an indicated value of $5,200.000.00.

3. Petitioner's witness presented two comparable sales ranging in price from $5,000,000.00 to $5,700,000.00.

4. Mr. Bruce testified that the first sale sold in August of 1995 between the City of Longmont and Key Bank of Colorado with the city leasing back the property for fifteen years. The property development includes a 4,000 square foot clubhouse and an 18-hole championship golf course. There were adjustments made for the conditions of the sale, time, inferior location and some of the improvements. The adjusted price per hole indicated $360,525.00, $887.00 per yard and $33,799.00 per acre.

5. The second sale considered occurred in August 1996 for Pinehurst Country Club.

The purchase price was $5,000,000.00 with $2,000,000.00 cash down and the balance financed by First Bank of Denver at a rate of 9% interest with a fifteen- year amortization. The sales price did not include the purchase of the clubhouse, pool and tennis facilities, which were owned by the country club membership. There were adjustments made to this sale for the lack of supporting facilities. The adjusted price per hole indicated $285,185.00 per hole, $772.00 per yard and $36,081.00 per acre.

6. Mr. Bruce testified that the sales comparison approach is considered in the overall valuation; however, it may not be the most reliable approach with limited sales in the area and reliable information regarding the sales transactions. The adjustments made to the sales are based upon the information regarding the sales; however, due to the nature of buyers for golf courses it is often difficult to obtain the necessary information to derive a detail analysis of the sales data and apply supported adjustments.

7. Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of $6,275,000.00.

8. Mr. Bruce testified that in arriving at an indicated value from the cost approach, consideration was given to both historical costs of other facilities and the costs indicated in Marshall & Swift.

9. Mr. Bruce testified that the cost approach is only supportive to the final value conclusion. The cost approach is irrelevant to buyers and sellers in the selling and purchase price. There are many difficulties in the cost approach for older golf courses. Many golf courses often sell for less then their original construction costs and with an older golf course it is difficult to estimate the rate of depreciation.

10. Mr. Bruce further testified that land used for the development of golf courses is usually land that has been allocated as mandatory greenbelts, where there can be no other improvements on the site, landfill areas and master planned communities. It is not considered to be economically feasible for developers to pay the same equivalent price for land used for a more intensive use, indicating a higher return on the investment in relation to the rate of return on a golf course.

11. Mr. Bruce testified that the value estimate for the subject site was derived from sales of vacant land parcels similar to the subject. The overall search extended beyond the immediate area of the subject due to the characteristics of the subject site, limited sales of other parcels and the restricted use potential. There were six sales ranging in price from $575,000.00 to $1,000,000.00 and in size from 101 acres to 192 acres. After the necessary adjustments were made to the sales the indicated adjusted price ranged from $4,651.00 per acre to $6,118.00 per acre. The subject's indicated land value was estimated to be 121 acres at $6,000.00 totaling $726,000.00.

12. Mr. Bruce presented an estimated direct and indirect costs totaling $13,618,532.00, with the estimated depreciation of $8,091,600.00 for a total of $6,275,000.00, equivalent to $348,611.00 per hole.

13. Petitioner's witness presented an income approach to derive a value of $3,640,000.00

for the subject property.

14. Mr. Bruce testified that consideration was given to the historical income and expenses from the subject property as well as other income and expenses from other private clubs.

15. Mr. Bruce testified that based on information from comparable facilities, and placing the greatest weight on the subject's historical figures an estimated stabilized proforma net operating income was performed. There were 425 golf memberships estimated and a total club membership of 621 with a total of 36,000 estimated rounds of golf.

16. The total estimated revenue resulted in $4,207,999.00 and expenses totaling $3,549,312.00 for a net operating income of $227,291.00. The net operating income is equivalent to approximately 5.4% of the total operating revenues. This ratio of income to expenses is low and reflective of the non-profit goals of a private club. Adding the golf and membership fees the overall stabilized net cash flow for the subject was estimated to be $372,709.00.00.

17. Mr. Bruce testified that the rate of return required on a golf course is generally higher than on other investment properties. The overall capitalization rate was estimated to be within the range of 10% to 12%. Applying this overall rate range to the subject's estimated net cash flow of $372.709.00 indicates a value range of $3,105,908.00 to $3,727,090.00. The mid-point was calculated to be $3,500,000.00.

18. Additionally, it is necessary to consider the value of the equity members, estimated to be $1,361,400.00 for an estimated value based on the direct capitalization approach of $4,860,000.00.

19. Mr. Bruce testified that the indicated value ranges were from $4,535,000.00 to $4,860,000.00. Golf courses are generally purchased based on the estimated net cash flow for an indicated value based on the direct capitalization approach of $4,750,000.00 for the subject property.

20. Mr. Bruce testified that the purpose of the appraisal presented was done for lending purposes. With proper permission, this report was submitted for tax appeal. At the time of the original appraisal, the management and accounting department represented there were 68 equity memberships, having the right to a refund upon termination, less a transfer fee. The final value was increased to reflect these equity memberships.

21. Mr. Bruce testified that subsequent to the report, information regarding the equity memberships was incorrect. There are no equity memberships. The original value conclusion included allocation for member equity of $1,360,000.00. The allocation of member equity was deducted resulting in an amended value conclusion of $3,640,000.00.

22. Mr. Bruce testified that it would be difficult to concur with the Respondent's appraisal report. The market approach is applicable if there are good comparable sales. It is difficult to rely strictly on the cost approach. The subject is an older course forms of depreciation are more difficult to calculate.

23. Under cross-examination Mr. Bruce testified that all three approaches were used in his report. There was only one land sale used the cost approach that resulted in a golf course. The

land sales used by the Respondent were not considered, sale# 1 was acquired by the city and the purchase price sometimes is not indicative of the market value in the area and this sale had not occurred during the time I was in the area. Sale# 2 was not considered this sale was purchased as an assemblage of their development and blended into the larger development. Sale# 3 was acquired by the City of Arvada for an additional nine holes. Usually when you purchase additional property you have to pay a higher premium.

24. Under further cross-examination Mr. Bruce testified that on a nonprofit golf club, the income approach can be a little more difficult to value versus a daily fee operation. However, the income approach can be utilized. For the income approach for the subject the actual fee and expense schedule was utilized. Expense ratios from other private clubs were also used as a check to see if the subject's expenses were in line with other clubs. The greatest weight was placed on the subject's historical data.

25. The income approach was the most reliable approach for the subject property. There were limited sales and information for the sales comparison approach. The rate of depreciation for a course this age was not considered to be as reliable as well.

26. Petitioner's witness, Mr. Mike Leapley, Controller for Lakewood County Club, testified that he is responsible for the preparation of the financial data for the club. He confirmed that the 68 memberships are non-equity memberships.

27. Under cross-examination Mr. Leapley testified that there were no real major renovations to the club during the tax base period other than the pool and locker rooms were remodeled. Capital funds were spent to keep the building running properly. There were new air conditioners installed and a new driving range fence constructed. There has been no work done to the irrigations system.

28. Under further cross-examination Mr. Leapley testified that there are 425 golfing memberships and approximately 125 to 150 social memberships. The golfing memberships are charter memberships, there are a couple of people on the waiting list. The social memberships have access to the clubhouse, dining room, tennis and pool. Due to the economy the initiation fees have been lowered to be competitive.

29. Petitioner is requesting a 2001 actual value of $3,640.000.00 for the subject property.

30. Respondent's witness, Mr. William B. Stuhlman, Certified General Appraiser with the Jefferson County Assessor's Office, presented the following indicators of value:

Market:	$6,500,000.00
Cost	$5,928,000.00

31. Based on the market approach, Respondent's witness presented an indicated value of $5,928,000.00 for the subject property.

32. Mr. Stuhlman testified that there were limited sales during the last five years in the Metro area. The sale utilized for this report and relied upon was the "Deer Creek Golf Club". This sale is located in Jefferson County and sold in February of 2000. The sales price was $5,100,000.00

and contained 151.12 acres. An additional 9.26 acres were acquired fro the driving range and maintenance building. Mr. Dennis Carruth gave the land to Mr. Golf LLC to build the course and sell it. The course is considered to be similar to the subject; however, the subject is considered to have a superior location. Adjustments were made for all differences indicating a value of $250,000.00 per hole. The other improvements were added in after depreciation and resulted in a value of $2,000,000.00. After the adjustments there was a concluded value of $6,500,000.00.

33. Respondent's witness used a state-approved cost estimated service to derive a market-adjusted cost value for the subject property of $6,500,000.00.

34. Mr. Stuhlman testified that the subject is an older course located in Lakewood. The cost approach was considered to be the most reliable methodology with the market comparison approach as a check. The income approach was not considered to be a reliable methodology for private clubs. We believe that private clubs like these are not intended to operate at maximum income potential.

35. Respondent's witness presented three comparable land sales ranging in sales price from $1,409,000.00 to $2,606,300.00 and in size from 41.864 acres to 160.602 acres. No adjustments were made to any of the sales. The average unadjusted sales price per acre was $24,718.00.

36. Mr. Stuhlman testified that he found three sales, two in Jefferson County and one in Arapahoe County. Sale# 1 is called "The Homestead at Fox Hollow". The course includes eight Par 3's, nine Par 4's, and one Par 5. It is a shorter course; therefore, considered to be an executive golf course.

37. This sale was acquired by the City of Lakewood and the actual cost was split between Jefferson County Open Space and the City of Lakewood. The City of Lakewood was responsible for 25 percent of the purchase price and Jefferson County Open Space was responsible for 75 percent. The golf course has a total of 120 acres with 70 acres used as golf course under a lease as part of "Bear Creek Lake Park". They have 71 acres plus the purchased 49.139 acres.

38. Mr. Stuhlman testified that sale# 2 is known as the "Eagle Ben Golf Course in Arapahoe County. This sale was actually two sales, one in July of 1998 for 90 acres and the other sale in October of 198 for the remaining acres. The land was acquired by U.S Homes for a golf course and development for a new community of 55 years and older.

39. Mr. Stuhlman testified that sale# 3 was acquired by the City of Arvada for an additional nine holes. It is known as the "Westwood Golf Course" and purchased from the Veldkamp Family.

40. The sales ranged from 41.89 to 160 acres; the subject has 120 acres and considered to be superior. The unadjusted range was from $16,228.00 to $33,657.00 an acre. Based upon location, size and time, the concluded value was estimated to be $20,000.00 per acre for the subject for a total value of $2,400,000.00. The golf course was split up between two parcels. Schedule No. 110117 is 40 acres and has six holes and the clubhouse. The other Schedule No 110119 has the remaining 80 acres and just the golf course.

41. Mr. Stuhlman testified that the cost estimates utilized were obtained from contractors in the area and Marshall & Swift Cost manuals. The estimated cost per hole based on Marshall & Swift ranged from $86,000.00 to $117,750,00 per hole. The cost estimates from the contractors for new courses in the area resulted in a higher cost per hole ranging from $155,000.00 to $205,556.00 per hole.

42. Mr. Stuhlman testified that the subject is considered to be a Class III course. The subject is located in an older area of Lakewood. The zoning for the subject is R-1A, which allows residential 1-acre lots. The estimated cost per hole was derived from the middle range of the Marshall & Swift Cost manuals for Class III courses. The estimated cost per hole was calculated at $100,000.00, depreciation was estimated at 15%. The actual cost per hole utilized was $85,000.00, derived by estimating 30% of the cost per hole depreciated at 50% with a 20-year effective life. The other improvements were valued using a replacement cost new less depreciation using the CLT system.

43. Under cross-examination, Mr. Stuhlman testified that there was no specific adjustment for the difference in land size on sale# 1 in the land sales comparables. However, he did consider the difference. The Denver Water Board sold the land to Jefferson County and then Jefferson County was reimbursed 25% of the purchase price by the City of Lakewood. This sale occurred between two government entities and believed there was nothing unusual about the sale excluding it from consideration.

44. Under cross-examination, Mr. Stuhlman testified that to his understanding that land sale# 2 was purchased as a golf course to be used as part of the Master Plan for a community of 55 years and older. It was his understanding that the entire area of 160 acres was used as strictly a golf course with no other mixed uses. If there was any additional land area associated with the sale used for residential development it would not be considered with the 160 acres.

45. Under cross-examination, Mr. Stuhlman testified that in his cost approach only physical obsolescence was applied. No functional or economic obsolescence was applied. The subject was built as a golf course and continues to operate as one. Therefore, any functional obsolescence would not apply. There were no outside factors indicating any economic obsolescence.

46. Under cross-examination, Mr. Stuhlman testified that he was not aware of the "Pinehurst and Ute Creek" sales used by the Petitioner at the time of his appraisal. Both of the sales are improved sales and would not be considered in the land sales. However, these sales might be considered in the market approach.

47. Under further cross-examination, Mr. Stuhlman testified that he believes the income approach is not considered to be the most reliable methodology for private golf clubs. Private golf clubs are not bought and sold as income producing properties. It is difficult to obtain information on the income and expenses as well as there are no sales of private clubs. The cost approach was considered to be the most reliable methodology to value the subject.

48. During redirect, Mr. Stuhlman testified that the assigned value takes into

consideration any factors affecting the subject. If the improvement value were left at $3,600,000.00 and an estimated land value of $1,370,920.00 the indicated value per acre would be $11,400.00.

49. Respondent assigned an actual value of $4,970,920.00 to the subject property for tax year 2001.

50. Petitioner's rebuttal witness, Mr. Tom McElhinney, Staff Appraiser with Tax Profile Services, testified regarding the golf course land sales used by the Respondent. Regarding land sale# 1 it was determined that this land was valued as a mixed-use land in the appraisal report done for the Denver Water Board. The prohibition of any other use other than open space was added by the buyer and not in place prior to the sale.

51. Mr. McElhinney testified that actually land sale# 2 was the result of a multiple sale. This was verified with Mr. David Snow from U.S. Homes. The subdivision known as "Heritage at Eagle Bend" was the result of multiple purchases and assemblage. It had all gone through annexation agreements with the City of Aurora and PDC Master Plan agreements prior to the closing of the sales. There was no single sale involved in the assemblage resulting in a golf course.

52. Mr. McElhinney testified regarding land sale# 3, the zoning for this parcel allows a wide mix of residential housing types and density. The land area has the ability to be more heavily developed other than just a golf course.

53. Under cross-examination, Mr. McElhinney testified that he believed the subject's zoning was classified as "CN". After reviewing, the Petitioner's and Respondent's appraisal, it was confirmed with the City of Lakewood that the zoning was R-1A.

54. During redirect Mr. McElhinney, testified that if you choose to use PUD land values as the land value for a golf entity, then you should ignore the value of the other improvements. It is not considered to be economically not viable.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the tax year 2001 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. The Respondent's assigned value takes into consideration any factors affecting the subject that were not strongly supported in the Respondent's appraisal report.

3. The Board can sympathize with the difficulty in the valuation of private-none equity golf clubs. The Board agrees that there are limited sales to derive a reliable value based on the market comparison approach. The construction costs for golf courses vary greatly depending on the market and type of course. The rate of depreciation on older golf courses may be difficult to access as well. Additionally, private non-equity courses do not operate at their full income potential. The income and expense information may be difficult to obtain. The Respondent presented the cost approach as the best indicated of value and the Petitioner presented the income approach as the best

indicator. The Board was left with the perplexity of which methodology presented was most supportable to the valuation of the subject.

4. The Board believes that on a daily-fee course where this type of facility operates as a business for profit potential investors are going to rely more heavily on the income approach. However, the Board was not convinced that total reliance should be on the income approach for the subject. The subject is a private non-profit course. The Board was convinced that the cost approach was the most reliable methodology to value the subject with the information provided. For the test of reasonableness the Board relied on the two sales presented by the Petitioner in the sales comparison approach for additional support. The Respondent raised the issue of the creditability of the Petitioner's appraisal report. The assignment of the appraisal was for lending purposes. The Board believes the Petitioner's report to be creditable, well documented and supported.

5. The Board was not convinced that the golf course land sales used by the Respondent in the cost approach were the most reliable sales to use. None of the sales were adjusted for any differences in characteristics and two of the sales were much smaller indicating a higher value per acre. The condition of these sales were not properly addressed and adjusted for. The Board was not convinced that these were the only suitable land sales available for consideration during the time period. The Board agrees the cost per hole of $85,000.00, improvement value and rate of depreciation to be reliable. The Board agrees with the Petitioner that the sale used by the Respondent in the market comparison approach to be suspect. The Respondent did adjust for the differences in characteristics; however, the conditions involving the sale may not be typical in the market. There was only one sale used which does not reflect a market trend.

6. The Board was not convinced that the appraisal report presented by the Respondent to be as supportable as the Petitioner's report. The Respondent's assigned value does take into consideration any factors affecting the overall valuation. The assigned valuation is below any of the sales presented by both parties and below the cost approach presented by the Petitioner. The Board was not convinced that the income approach for the subject was a true indicator of the overall value.

7. The Board was convinced that during the tax base period the area was appreciating. There was testimony from both parties that there was construction of new courses in the area and the subject was built as a golf course and continues to operate as one. The Board agrees with the Respondent that only physical depreciation would apply and there was no need to adjust for economic and functional obsolescence.

8. The Respondent presented a reasonable supported value conclusion and after careful consideration of all the evidence and testimony presented, the Board affirms Respondent's assigned value of $4,970,920.00 for tax year 2001.

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 28th day of May, 2003.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins

Rebecca A. Hawkins

Debra A. Baumbach

Debra A. Baumbach

This decision was put on the record

MAY 2 8 2003

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

STATE OF COLORADO
SEAL
BOARD OF ASSESSMENT APPEALS

39602.03.doc