

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LAKE VALLEY GOLF CLUB,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Richard Olona, Esq. Address: 7472 S. Shaffer Lane, Suite 130 Littleton, Colorado 80127 Phone Number: (303) 433-1699 Attorney Reg. No.: 17940</p>	<p>Docket Number: 39604</p>
<p>ORDER ON REMAND</p>	

THIS MATTER is on remand to the Board of Assessment Appeals after entry of the Court of Appeals' decision on Case No. 02CA2117. The Court of Appeals vacated the Board's Order dated September 24, 2002 with directions to enter a new Order consistent with the views expressed in the Court of Appeals' opinion.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**178.61 ACS M/L 32-2N-70
OUTLOTS B, D, E, F, K & Q
(Boulder County Schedule No. 0065947, 0115204 & 0110973)**

Petitioner is protesting the 2001 actual value of the subject property. The subject is described as an 18-hole, 178.61-acre golf course. Improvements to the course include a 7,562

square foot clubhouse; a cart storage building comprising 6,768 square feet; a residential building comprising 1,344 square feet; and an older utility building comprising 2,874 square feet.

ISSUES:

Petitioner:

Petitioner contends that the subject property has not been appropriately valued utilizing the applicable approaches to value. Within the cost approach, all four of the land sales were agricultural sales in the path of development. Land sales used by Petitioner are more appropriate. In using the income approach, Petitioner has used the actual income approach. County has not used all of the actual income. They also left out some of the expenses that should have been considered. Also, full year 2000 data has been used that is wrong. Accordingly, the valuation set by the Respondent is higher than the applicable data would support.

Respondent:

Respondent contends that the evidence will show value should be sustained. The subject property is undervalued. In valuing the subject, all three approaches to value have been considered; the cost approach is the most reasonable approach. All three facets of the cost approach are ultimately more credible. The income approach is not relevant, due to the fact that the subject property changed during the course of the base period. The Respondent has asked for income and expense information to June 2000; this was not provided.

FINDINGS OF FACT:

1. Petitioner's witness, Mitchell Galnick, Manager of the Lake Valley Golf Club (LVGC), testified that he is responsible for all operations of the Lake Valley Golf Club. A golf pro owns and operates the golf shop. He has ultimate responsibility for the maintenance and business office operations. A grill is now operated by the club. He indicated that he oversees all of the various facets. He described the subject as essentially a different operation from when it was a public course.

2. The witness described the subject's ownership, and noted that a separate company owns the land. The golf club has operated under a lease for the last 15 years. LVGC LLC is responsible for paying taxes. They file with the IRS as a "for profit" company.

3. The witness testified that the golf course was built in late 1964 or early 1965. The property was further described as a native soils push-up course. The property has no paved cart paths, with most of the paths consisting of gravel construction. The irrigation system was installed in 1990/1991. Almost the entire golf course is in a flood plain. The impact on the subject relates to the fact that the golf course is on high ground, but the remainder of the site is

likely undevelopable. There are no built in restrooms on the course. No water or sewer is available. The club currently utilizes portable toilets.

4. The witness testified that Lake Valley is a private club; it was converted from a daily fee course in 1999. No water or sewer taps are available to the property as a result of a lawsuit. The decision to change to a private course was made to maximize the profits of the course. With the number of municipal courses in the Front Range, it was felt that it would be more difficult to compete with the newer courses.

5. The witness testified that the course owners sought a new market niche. They felt that a golf-only private course was a prudent business decision, intended to make more money for the operator. He indicated that he is accountable to the owners to maximize the profit for the course. He is also one of its owners. The property was described as a non-equity club; members have no ownership in the course. Members have the right to utilize the facility. There are no other amenities except for golf. The initiation fee is \$11,000.00 currently; in 1999, it was between \$8,500.00 to \$9,000.00. The fees started at \$5,000.00 in 1996. The witness testified that he felt that his fees are among the lowest in the area. They have a membership cap of 485 members. Currently they have about 460 members. They have never sold out all of the memberships.

6. The witness testified that there are no other potential uses for the property. Additionally the witness felt that redevelopment was not an opportunity.

7. In response to cross-examination, the witness testified that The Lake Valley Golf Club contracts with a private management company, M&M Inc. The witness testified that he is the owner of that company.

8. The witness testified that he felt the course was very well designed. In 2000, the course was in very good condition. The designer of the course, Press Maxwell was a great designer; he is best described as a "name" architect.

9. The witness testified that sand has been added to the golf course over time. He admitted that the average golfer probably does not know the difference between these courses.

10. The witness testified that a short game practice area was completed in the spring of 2000. It cost approximately \$35,000.00 to construct this area. The golf clubhouse was constructed in the spring or summer of 1998. The clubhouse won an interior design award.

11. Mr. Galnick testified that the course owns one share of Left Hand Ditch and two shares of Farmer Ditch water rights.

12. The witness felt that the course was essentially the same course as a private course as it was as a daily fee course. The initiation fee is not fully refundable. It is highly dependent on the arrangement when the initiation fee was first paid. Some members could get 100% back; some could get as little as 50% back. The golf clubhouse was completed in spring or summer of 1998. The cart barn was completed in 1999.

13. Petitioner's witness, Mr. Thomas McElhinney, of Tax Profile Services presented the following indicators of value:

Market:	\$1,584,000.00 to \$4,104,000.00
Cost:	\$3,113,670.00
Income:	\$2,000,000.00

14. Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of \$3,113,670.00.

15. The witness testified that the lots comprising the subject are referred to as "outlots". The subject is zoned NU-PUD-Non Urban Planned Unit Development. The county no longer permits non-urban subdivisions. When NU-PUD parcels were being approved, the designation "outlot" was created to identify parcels that have no development rights. The notes on the development plat identifies the subject lots as being outlots for the golf course only. At no time could the course be subdivided any further. The existing NU-PUD is built up, and there are no development rights. Additionally, there are no sewer taps in place.

16. The witness testified that this is a critical component of the cost approach. The Respondent has placed a value of \$5,000.00 per acre on the subject. The witness identified a sale for the Highlands Ranch Golf Club, in which land was sold restricted to golf course or recreation use only. This sale was determined to be the most appropriate in the valuation of the subject. There are limited sales in the market that have the types of restrictions that the subject has.

17. The witness testified that a golf course would not be economically feasible on land that would be worth \$15,000.00 per acre, which is the price of comparable PUD land in the Boulder marketplace during the base year period.

18. The witness referred to a publication from the Division of Property Taxation, which states that land sales most appropriate to golf course valuation should be the sales of other land intended for golf course development, recreational use land or agricultural land.

19. Based on the market approach, Petitioner's witness presented an indicated value of \$1,584,000.00 to \$4,104,000.00 for the subject property.

20. Petitioner's witness presented three comparable sales ranging in sales price from \$1,760,000.00 to \$5,500,000.00, which equated to \$87,780.00 per hole to \$227,780.00 per hole.

21. The witness testified that he did not place much weight on the direct sales comparison approach, due to the nature of the sales that have occurred within the marketplace.

22. The witness testified that there has been a significant increase in the number of golf courses recently, outpacing the increase in population. Additionally, real estate development has driven golf course development, as well as the rise in public golf course.

23. Petitioner's witness presented an income approach to derive a value of \$2,000,000.00 for the subject property.

24. The witness testified that he completed an income analysis, which was a direct capitalization based on the actual numbers provided by the property owner. The actual data was provided for 1998, 1999, and 2000. The reason for doing this was to demonstrate that the income stream was reasonably stable during this time period. He capitalized the net operating income for each of the three years, and then deducted personal property and business value. The indicated property value during this three-year period ranged from \$1,700,000.00 to \$2,900,000.00 (rounded). In light of the fact that the revised value offered to the Petitioner at the County Board of Equalization level was \$3,500,000.00, the witness felt that the value should be lower.

25. The witness also testified that he completed a pro-forma analysis that examined the activity at 12 nearby golf courses located in Boulder, Louisville, Lafayette, Longmont, and parts of Westminster and Arvada. Using market-derived information, a valuation of \$2,000,000.00 was concluded.

26. The witness testified that through an examination of the cost, direct sales comparison and income approaches, the income approach is most relevant, given that the revenues are fairly stable. A final value of \$2,500,000.00 is determined.

27. Discussing his rebuttal evidence, the witness presented comparable sales from Boulder County Open Space that demonstrated the diminution in value that occurred when conservation easements were placed on the parcels. Given the Respondent's reliance on the initial acquisition price to derive a land value for the parcels, the witness felt that the use of the subsequent re-sale of the same parcels with conservation easements in place is a more accurate reflection of the underlying land value for the subject.

28. The witness testified that the county's reliance on these sales significantly inflates the subject property's value.

29. The witness testified in response to cross-examination that his valuation data comprised an opinion of value, but should not be considered an appraisal. He noted that he did not sign this document, and therefore it is not an appraisal. The witness further explained that an opinion of value need not include a full-blown appraisal. The witness admitted that the submitted information is not a USPAP compliant document. Because the analysis is intended for ad valorem use only, it is not considered to be an opinion of fair market value. That valuation conclusion would include personal property and business value.

30. The witness testified that his compensation is based on a flat fee of \$2,500.00 plus a 30% percentage of property tax savings. If a reduction is not obtained, he can keep the flat fee.

31. The witness testified that he has inspected the subject property. He was aware of the construction status of the property since 1999. The property was in transition during the base period.

32. The witness testified with respect to the Marshall Valuation Service cost data contained within Petitioner’s Exhibit B. The data contained within the report contains excerpts from this data.

33. In completing his cost approach analysis, the witness testified that he did not undertake an independent analysis of the replacement costs for the clubhouse improvements. He based his land valuation estimate solely on the Highlands Ranch Golf Course land sale. He did not undertake an independent land analysis prior to submitting Exhibit A. He did undertake to discuss with a Boulder County Parks and Open Space representative the sales acquired by the county.

34. The witness testified that the Deer Creek @ Meadow Ranch sale represented a sale without a clubhouse.

35. Petitioner is requesting a 2001 actual value of \$2,500,000.00 for the subject property.

36. Respondent's witness, Mr. John Reinhold, a Colorado Certified General Appraiser, and Chief Commercial Appraiser with the Boulder County Assessor's Office, presented the following indicators of value:

Market:	\$5,500,000.00
Cost:	\$4,928,250.00
Income:	\$3,616,400.00

37. Respondent's witness used the actual construction costs for the subject property and a state-approved cost estimating service to derive a market-adjusted cost value for the subject property. After making corrections to the improvement cost, the witness concluded a cost approach conclusion of \$4,928,250.00.

38. The witness testified that it is his understanding that 50% of the land could be re-developed, according to the county land-planning department. He further explained that five 35-acre tracts could be developed from the subject site.

39. The witness testified that he was not an expert on golf courses, but he felt that the subject was best classified as an average class III course, using Marshall Valuation guidelines. He examined Marshall Valuation guidelines to help define the depreciation applicable to the subject. \$89,500.00 per hole was his concluded replacement cost estimate for the subject.

40. The witness testified that he felt that the cost approach was a reliable approach to value for the subject.

41. In response to cross-examination, the witness testified that every subdivision has differing restrictions impacting “outlots”. He did not investigate the specific regulations impacting the subject property.

42. The witness testified that he used the owner's costs to derive the construction cost estimate for the subject. All of his land sales were agricultural land sales. He thought that one was in a floodplain, but could not recall which land parcel was impacted by the floodplain.

43. The witness testified that he made no size or location adjustments because the sales were all in Boulder County, and were all of similar type.

44. The witness testified that he did not consider the fact that the subject contains gravel cart paths and portable toilets in deriving a construction cost estimate for the subject on his per hole construction cost.

45. In examining the rebuttal material contained in exhibit B, the witness testified that he did not consider the "Lippincott" sale. A significant amount of water rights were included; no development rights were included in the sale.

46. The witness testified that Jan Burns of the Parks and Open Space Department told him that the Wolf Run property was not in the early stages of subdivision.

47. The witness testified that he had a discussion with the appropriate county officials, and that the NU-PUD designation was still in place in Boulder County. The particular outlots for the subject property were not discussed.

48. Based on the market approach, Respondent's witness presented an indicated value of \$5,500,000.00 for the subject property.

49. Respondent's witness presented one comparable sale that had an indicated sales price per hole of \$305,556.00. The evidence provided by the Respondent's witness indicated that no other sales were located during the base year time frame from June 30, 1995 through June 30, 2000. The other sales that were located were prior to this or after the base year time frame.

50. With respect to the direct sales comparison analysis, the witness testified that he felt that it was inappropriate to adjust the Los Verdes Golf Course sale in the manner that the Petitioner's witness did. A lump-sum adjustment is not the manner in which the market would adjust a sale of this type.

51. Respondent's witness used the income approach to derive a value of \$3,616,400.00 for the subject property.

52. According to the evidence submitted, the owner's actual income and expenses were submitted within the first appeal to the County Board of Equalization, and were used to create the pro-forma utilized in the analysis. The year 2000 income was used, and the 1999 income was not used, because it was much lower due to the fact that the new clubhouse was being constructed and the income was not at its full potential. It was noted that in the previous income statements and the newer income statements, the income was higher in comparison to the 1999 income data.

53. Because the subject changed from a public to a private club, the witness testified that he felt that it was not appropriate to use the 1999 income since this was income derived from the club's configuration as a public play course. The property was not a public course as of 2001.

54. The witness testified that he chose not to use the 1999 income because the subject was now a private club, and this income represented transitional income, and was not stabilized.

55. In response to re-direct testimony, the witness testified that the actual costs in Exhibit 8 were those that were actually expended on the subject, according to the course manager, Mr. Galnick.

56. As an appraiser, the witness testified that he felt it was important to use actual construction costs if such were available.

57. The witness testified that vacant land values increased in Boulder County during the base period.

58. Respondent assigned an actual value of \$3,531,200.00 to the subject property for tax year 2001.

59. The witness testified that he felt that the 1999 income attributable to the subject was not representative of its income as a private club, and this was why he did not utilize this income.

60. Samuel Forsyth, Chief Deputy Assessor, and a Colorado Certified General Appraiser, testified that he is familiar with the subject property. The witness testified that the property is not included in a 100-year FEMA flood zone.

61. Mr. Forsyth testified that a potential spillway from a nearby reservoir is the reason that a portion of the site is in a "no build" zone. It is his understanding that the density could be transferred from the unbuildable portion of the site to the buildable portion of the site that is not in a floodplain.

62. Mr. Forsyth testified that discussions with Clark Meisner, Director of Boulder County Open Space, indicated that the subject is comprised of two distinct building sites. Mr. Forsyth testified that sewer taps are not available to the property.

63. Mr. Mitchell Galnick, recalled as a rebuttal witness, testified that he was the developer of the majority of the lots that surround the golf course. The City of Boulder sued the County of Boulder. A settlement agreement was reached between all parties, that concluded that no taps would be issued.

64. The witness testified that he is not aware that any additional density is available to the subdivision. It is his understanding that there is no additional residential density allowed for the subject site.

65. The witness testified that the 1999 income occurred after the completion of the clubhouse. The fact that there was lower income during this period was based on the general business flow at the time.

CONCLUSIONS:

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

2. While the Board agrees that the subject is now operated as a for-profit enterprise, it is also clear that the income data available to support a valuation from an income analysis was during a period in which the transition to a for-profit enterprise was not fully stabilized. For this reason, while the income approach is the most appropriate approach to utilize in valuing a for-profit golf course property, the available income data is less reliable in ascertaining a stabilized income-generating pro-forma than would otherwise be the case for the subject itself. With respect to the income, the income stream represents a transitioning course; it should be valued as a stabilized private club. Although the income approach used by the Respondent is the most reasonable of the two presented approaches, the Board gives this approach little weight due to the use change of the property from a public to private course during the base period.

3. The Los Verdes sale was utilized by both experts, but both parties asserted that the direct sales comparison analysis was not well supported in the valuation for the subject. The Board agrees and gives this approach little weight.

4. The Board also agrees with the Petitioner that the cost approach must be based on land sales that are similar to the subject. There was clearly conflicting information presented by both parties with respect to the accuracy of the land component valuation. While the Respondent may have utilized sales that were acquired for potential residential development, the only sale offered by the Petitioner's witness was even less convincing due to its extreme distance from the subject. Nonetheless, the Board feels that the use of land sales that were only derived from open space sales, has the potential for inflating the overall value accorded to the land component of the subject.

5. After considering all of the arguments appropriate to the weighting that should be accorded the various approaches to value, the Board is convinced that the cost approach is still the best approach to use.

6. The Board notes that there were convincing recent cost data available on the clubhouse, which was described by both parties as being of good quality. The building value is the most clearly supported of the cost estimates by either party, and the actual construction costs

were available to support the estimate of value by the Respondent. The Board accepts Respondent's revised building improvement value of \$1,776,400.00, rounded.

7. There were numerous quantification errors made within the cost approach analysis by the Petitioner. The depreciation figures used by Petitioner are confusing, and Mr. McElhinney admitted that an assistant had completed much of the information in the course analysis. The Board determined that Respondent's golf course improvement value was well supported and reasonable and accepts Respondent's value of \$89,500.00 per hole, or \$1,611,000.00.

8. The Board recognizes that the cost approach is most reliable in the valuation of the subject by virtue of the lack of stabilized income data, and a lack of good comparable sales. However, the Board feels that the land value asserted by the Respondent is somewhat higher than is appropriate due to the inclusion of sales acquired of higher density residentially zoned land. The Board determined that the land value presented by Respondent does not sufficiently reflect the subject lying, at least partially, in a flood plain, having no sewer taps available, and no transferable residential density available. For these reasons, the Board determined that the subject land value should be reduced to \$5,600.00 per acre, which is from the lower end of the comparable sales price range. The adjusted land value is determined to be \$982,575.00.

9. After careful consideration of all the evidence and testimony, the Board concluded that the 2001 subject property value should be \$4,369,975.00. The Board notes that this value is higher than the assigned value. This Board has no authority to raise the value and thus affirms Respondent's assigned value of \$3,531,200.00.

ORDER:

The petition is denied.

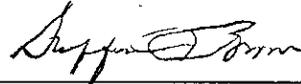
APPEAL:

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 30th day of June 2004.

BOARD OF ASSESSMENT APPEALS



Steffen A. Brown

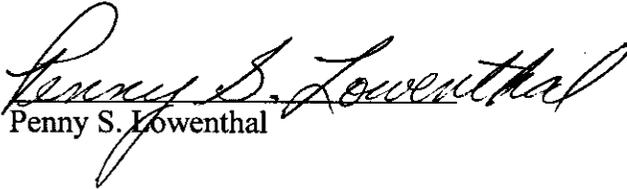


Karen E. Hart

This decision was put on the record

JUN 29 2004

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



Penny S. Lowenthal



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<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Richard Olona Address: 2525-16th Street, Suite 225 Denver, Colorado 80211 Phone Number: (303) 433-1699 E-mail: Attorney Reg. No.: 17940</p>	<p>Docket Number: 39604</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 20, 2002, Steffen Brown and Mark R. Linné presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Robert Gunning, Esq.

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25. The witness also testified that he completed a pro-forma analysis that examined the activity at 12 nearby golf courses located in Boulder, Louisville, Lafayette, Longmont, and parts of Westminster and Arvada. Using market-derived information, a valuation of \$2,000,000.00 was concluded.

26. The witness testified that through an examination of the cost, direct sales comparison and income approaches, the income approach is most relevant, given that the revenues are fairly stable. A final value of \$2,500,000.00 is determined.

27. Discussing his rebuttal evidence, the witness presented comparable sales from Boulder County Open Space that demonstrated the diminution in value that occurred when conservation easements were placed on the parcels. Given the Respondent's reliance on the initial acquisition price to derive a land value for the parcels, the witness felt that the use of the subsequent re-sale of the same parcels with conservation easements in place is a more accurate reflection of the underlying land value for the subject.

28. The witness testified that the county's reliance on these sales significantly inflates the subject property's value.

29. The witness testified in response to cross-examination that his valuation data comprised an opinion of value, but should not be considered an appraisal. He noted that he did not sign this document, and therefore it is not an appraisal. The witness further explained that an opinion of value need not include a full-blown appraisal. The witness admitted that the submitted information is not a USPAP compliant document. Because the analysis is intended for ad valorem use only, it is not considered to be an opinion of fair market value. That valuation conclusion would include personal property and business value.

30. The witness testified that his compensation is based on a flat fee of \$2,500.00 plus a 30% percentage of property tax savings. If a reduction is not obtained, he can keep the flat fee.

31. The witness testified that he has inspected the subject property. He was aware of the construction status of the property since 1999. The property was in transition during the base period.

32. The witness testified with respect to the Marshall Valuation Service cost data contained within Petitioner's Exhibit B. The data contained within the report contains excerpts from this data.

33. In completing his cost approach analysis, the witness testified that he did not undertake an independent analysis of the replacement costs for the clubhouse improvements. He based his land valuation estimate solely on the Highlands Ranch Golf Course land sale. He did not undertake an independent land analysis prior to submitting Exhibit A. He did undertake to discuss with a Boulder County Parks and Open Space representative the sales acquired by the county.

34. The witness testified that the Deer Creek @ Meadow Ranch sale represented a sale without a clubhouse.

35. Petitioner is requesting a 2001 actual value of \$2,500,000.00 for the subject property.

36. Respondent's witness, Mr. John Reinhold, a Colorado Certified General Appraiser, and Chief Commercial Appraiser with the Boulder County Assessor's Office, presented the following indicators of value:

Market:	\$5,500,000.00
Cost:	\$4,928,250.00
Income:	\$3,616,400.00

37. Respondent's witness used the actual construction costs for the subject property and a state-approved cost estimating service to derive a market-adjusted cost value for the subject property. After making corrections to the improvement cost, the witness concluded a cost approach conclusion of \$4,928,250.00.

38. The witness testified that it is his understanding that 50% of the land could be re-developed, according to the county land-planning department. He further explained that five 35-acre tracts could be developed from the subject site.

39. The witness testified that he was not an expert on golf courses, but he felt that the subject was best classified as an average class III course, using Marshall Valuation guidelines. He examined Marshall Valuation guidelines to help define the depreciation applicable to the subject. \$89,500.00 per hole was his concluded replacement cost estimate for the subject.

40. The witness testified that he felt that the cost approach was a reliable approach to value for the subject.

41. In response to cross-examination, the witness testified that every subdivision has differing restrictions impacting "outlots". He did not investigate the specific regulations impacting the subject property.

42. The witness testified that he used the owner's costs to derive the construction cost estimate for the subject. All of his land sales were agricultural land sales. He thought that one was in a floodplain, but could not recall which land parcel was impacted by the floodplain.

43. The witness testified that he made no size or location adjustments because the sales were all in Boulder County, and were all of similar type.

44. The witness testified that he did not consider the fact that the subject contains gravel cart paths and portable toilets in deriving a construction cost estimate for the subject on his per hole construction cost.

45. In examining the rebuttal material contained in exhibit B, the witness testified that he did not consider the "Lippincott" sale. A significant amount of water rights were included; no development rights were included in the sale.

46. The witness testified that Jan Burns of the Parks and Open Space Department told him that the Wolf Run property was not in the early stages of subdivision.

47. The witness testified that he had a discussion with the appropriate county officials, and that the NU-PUD designation was still in place in Boulder County. The particular outlots for the subject property were not discussed.

48. Based on the market approach, Respondent's witness presented an indicated value of \$5,500,000.00 for the subject property.

49. Respondent's witness presented one comparable sale that had an indicated sales price per hole of \$305,556.00. The evidence provided by the Respondent's witness indicated that no other sales were located during the base year time frame from June 30, 1995 through June 30, 2000. The other sales that were located were prior to this or after the base year time frame.

50. With respect to the direct sales comparison analysis, the witness testified that he felt that it was inappropriate to adjust the Los Verdes Golf Course sale in the manner that the Petitioner's witness did. A lump-sum adjustment is not the manner in which the market would adjust a sale of this type.

51. Respondent's witness used the income approach to derive a value of \$3,616,400.00 for the subject property.

52. According to the evidence submitted, the owner's actual income and expenses were submitted within the first appeal to the County Board of Equalization, and were used to create the pro-forma utilized in the analysis. The year 2000 income was used, and the 1999 income was not used, because it was much lower due to the fact that the new clubhouse was being constructed and the income was not at its full potential. It was noted that in the previous income statements and the newer income statements, the income was higher in comparison to the 1999 income data.

53. Because the subject changed from a public to a private club, the witness testified that he felt that it was not appropriate to use the 1999 income since this was income derived from the club's configuration as a public play course. The property was not a public course as of 2001.

54. The witness testified that he chose not to use the 1999 income because the subject was now a private club, and this income represented transitional income, and was not stabilized.

55. In response to re-direct testimony, the witness testified that the actual costs in Exhibit 8 were those that were actually expended on the subject, according to the course manager, Mr. Galnick.

56. As an appraiser, the witness testified that he felt it was important to use actual construction costs if such were available.

57. The witness testified that vacant land values increased in Boulder County during the base period.

58. Respondent assigned an actual value of \$3,531,200.00 to the subject property for tax year 2001.

59. The witness testified that he felt that the 1999 income attributable to the subject was not representative of its income as a private club, and this was why he did not utilize this income.

60. Samuel Forsyth, Chief Deputy Assessor, and a Colorado Certified General Appraiser, testified that he is familiar with the subject property. The witness testified that the property is not included in a 100-year FEMA flood zone.

61. Mr. Forsyth testified that a potential spillway from a nearby reservoir is the reason that a portion of the site is in a “no build” zone. It is his understanding that the density could be transferred from the unbuildable portion of the site to the buildable portion of the site that is not in a floodplain.

62. Mr. Forsyth testified that discussions with Clark Meisner, Director of Boulder County Open Space, indicated that the subject is comprised of two distinct building sites. Mr. Forsyth testified that sewer taps are not available to the property.

63. Mr. Mitchell Galnick, recalled as a rebuttal witness, testified that he was the developer of the majority of the lots that surround the golf course. The City of Boulder sued the County of Boulder. A settlement agreement was reached between all parties, that concluded that no taps would be issued.

64. The witness testified that he is not aware that any additional density is available to the subdivision. It is his understanding that there is no additional residential density allowed for the subject site.

65. The witness testified that the 1999 income occurred after the completion of the clubhouse. The fact that there was lower income during this period was based on the general business flow at the time.

CONCLUSIONS:

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

2. While the Board agrees that the subject is now operated as a for-profit enterprise, it is also clear that the income data available to support a valuation from an income analysis was during a period in which the transition to a for-profit enterprise was not fully stabilized. For this

reason, while the income approach is the most appropriate approach to utilize in valuing a golf course property, the available income data is less reliable in ascertaining a stabilized income-generating pro-forma than would otherwise be the case for the subject itself. With respect to the income, the income stream represents a transitioning course; it should be valued as a stabilized private club. The income approach used by the respondent is the most reasonable.

3. The Los Verdes sale was utilized by both experts, by both parties asserted that the direct sales comparison analysis was not well supported in the valuation for the subject. The Board agrees.

4. The Board also agrees with the Petitioner that the cost approach must be based on land sales that are similar to the subject. There was clearly conflicting information presented by both parties with respect to the accuracy of the land component valuation. While the Respondent may have utilized sales that were acquired for potential residential development, the only sale offered by the Petitioner's witness was even less convincing due to its extreme distance from the subject. Nonetheless, the Board feels that the use of land sales that were only derived from open space sales, has the potential for inflating the overall value accorded to the land component of the subject.

5. After considering all of the arguments appropriate to the weighting that should be accorded the various approaches to value, the Board is convinced that the cost approach is still the best approach to use.

6. The Board notes that there were convincing recent cost estimates available on the clubhouse, which was described by both parties as being of good quality. The building value is the most clearly supported of the cost estimates by either party, and the actual construction costs were available to support the estimate of value by the Respondent.

7. There were numerous quantification errors made within the cost approach analysis by the Petitioner. The depreciation figures used by Petitioner are confusing, and Mr. McElhinney admitted that an assistant had completed much of the information in the course analysis.

8. The Board recognizes that the cost approach is most reliable in the valuation of the subject by virtue of the lack of stabilized income data, and additionally feels that the land value asserted by the Respondent is somewhat higher than is appropriate due to the inclusion of sales acquired of higher density residentially zoned land.

9. The Board concluded that the 2001 actual value of the subject property should be reduced to \$3,350,000.00, with \$1,340,800.00 allocated to land and \$2,009,200.00 allocated to improvements.

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$3,350,000.00, with \$1,340,800.00 allocated to land and \$2,009,200.00 allocated to improvements.

The Boulder County Assessor is directed to change her records accordingly.

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 24th day of September, 2002.

BOARD OF ASSESSMENT APPEALS



Steffen A. Brown

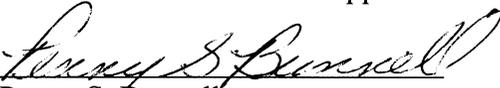


Mark R. Linné

This decision was put on the record

SEP 23 2002

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



Penny S. Bunnell

