

<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>ROLLING HILLS COUNTRY CLUB,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF COMMISSIONERS</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Richard G. Olona, Esq. Address: Olona &amp; Associates, P.C. 2525 16<sup>th</sup> Street Denver, Colorado 80211 Phone Number: (303) 433-1699 E-mail: olonalaw@aol.com Attorney Reg. No.: 17940</p>	<p><b>Docket Number: 40103</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on April 30, 2003, Karen E. Hart and Rebecca A. Hawkins presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Martin E. McKinney, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**15707 West 26<sup>th</sup> Avenue, Golden, Co. 80401  
(Jefferson County Schedule Nos. 066346, 082377, 203570)**

Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2001. The subject property consists of a not-for-profit eighteen-hole golf course and tennis facility. The property has 164.493 acres of which 129.30 acres is zoned A-2 and 35.19 acres is zoned PD. Improvements are a 27,463 square foot clubhouse, two maintenance buildings, a groundskeeper's residence, various support buildings, a driving range, outdoor swimming pool, and indoor and outdoor tennis courts.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property has been overvalued. Petitioner's witness used both the cost and income approaches to value. The major difference in the two cost approaches presented is the land value. The subject land is restricted to golf course use only.

### **Respondent:**

Respondent contends that the subject property was correctly valued using the market and cost approaches. Petitioner's witness used an incorrect value date, relied on only one land sale in the cost approach, omitted the single family residence in the appraisal and relied on speculation to complete the income approach.

## **FINDINGS OF FACT:**

1. Petitioner's witness, Mr. Jeffrey Monroe of Tax Profile Services, is a licensed appraiser in the State of Colorado. He testified that 90% of his work is golf course appraisal nationwide. Mr. Monroe reviewed the appraisal prepared by Mr. John Emmerling of Daniels-Emmerling Real Estate Services, LLP and finds the value supportable. He also reviewed the appraisal report prepared for the Respondent by Mr. William Schulman, Certified General Appraiser with the Jefferson County Assessor's Office. Mr. Monroe felt the appraisal did not reflect the true condition of the subject property.

2. Mr. Monroe testified that he believes larger land sales can be used to value a golf course but only when the proper adjustments are made. Land sales with deed restrictions should be used since buyers are purchasing land they cannot develop or change. Unless a land sale is available for a higher use, acquired, and then deed restricted, an adjustment must be made. He testified that it is not uncommon to eliminate sales due to large adjustments or other factors. Agricultural sales that were in the path of development could have been used but were not; open space sales are appropriate if adjusted properly.

3. Mr. Monroe testified that the Respondent's land sales reflect land acquisitions, not sales. Most were assemblages that increased the land value of the subject. He testified that the sales

were not investigated and no adjustments were made for higher use, zoning, time, size, location or topography, which resulted in an excessive land value.

4. Mr. Monroe testified that he found only one land sale that was truly comparable to the subject property. It is in Highlands Ranch and shown as Sale #5, Petitioner's Exhibit B, Page B4. This sale was dedicated open space and limited to golf course or other recreational use at the time of sale and reflects a price of \$5,000.00 per acre. Sale #6 is Pinehurst Country Club and included the improvements: golf holes, two maintenance buildings and some excess land. Mr. Monroe testified that he would not use this as a comparable as it is not a land sale.

5. Mr. Monroe testified that the Respondent's appraiser was provided income and expense information on the subject, as well as other private and daily fee courses. However, the Respondent failed to do an income approach and the lack of an income approach is partially responsible for the inflated value.

6. Mr. Monroe testified that the land sales factor into all three approaches to value in some way. By using a capitalization rate the appraiser looks at land comparables to see if they support the value of the improvement on that land. In the case of Highlands Ranch, the \$5,000.00 per acre does support the golf improvement. He feels \$5,000.00 per acre for the golf course land is supportable.

7. Upon questions from the Board, Mr. Monroe testified that sales of completed golf courses typically are \$0.40 on the dollar. Therefore, golf courses sell for much less than they cost to construct, rendering the cost approach the least reliable approach to value. Golf courses tend to sell due to location or economics outside the property. Courses are often built as an amenity to a residential community and sell memberships to the Homeowners Association. Upon re-cross examination, Mr. Monroe testified he did not have any evidence to present in support of these opinions.

8. Mr. Monroe testified that he believes there is an intangible value included in the appraisal completed by Mr. Emmerling which he supports, but also believes the value could be less.

9. Petitioner's witness, Mr. John Emmerling, MAI with Daniels-Emmerling Real Estate Services, presented the following indicators of value:

Cost:	\$4,400,000.00
Income:	\$5,600,000.00 (including personal property of \$1,671,998.00)

10. Mr. Emmerling testified that the subject property is a leased fee estate, not fee simple. He testified to analyzing all three approaches to value, but did not use the sales comparison approach for the subject property.

11. Petitioner's witness presented a cost approach to derive a market-adjusted value for the subject property of \$4,400,000.00, based on a land value of \$5,000.00 per acre.

12. Mr. Emmerling testified to the condition and functional problems associated with the improvements. The clubhouse was built in 1966 and received normal maintenance until 1999. At that time, the clubhouse underwent a \$3,000,000.00 renovation on all three floors. The swimming pool is twenty to thirty years old and has some degradation. The tennis courts experience a problem with golf balls accumulating inside the courts due to an elevated tee box. A barrier fence will be installed at a cost of \$80,000.00 to help minimize the situation. The cart building is under the swimming pool deck and is some distance from the clubhouse, which results in higher labor costs. The subject course has natural push-up greens that are inferior to newer courses built in the 1990's. Newer courses use USGA modified sand greens. Five greens may be re-done, the bunkers need work due to poor drainage, and the clubhouse is in a geologic hazard overlay district.

13. In 1983 the irrigation system was updated, but it needs updating again. The budget for this work is \$1,200,000.00 plus \$60,000.00 for a pump that draws water from the lakes on the property.

14. Mr. Emmerling testified that the clubhouse could not be re-built in the same location due to the geologic hazard district. If the clubhouse were moved to another location it would affect the layout of the course.

15. Petitioner's witness presented an income approach to derive a value of \$5,600,000.00 for the subject property.

16. The income approach to value of \$5,600,000.00 includes personal property in the amount of \$1,671,988.00 or \$3,928,012.00, without personal property. He testified that all golf courses are valued based on the income approach. However, the problem is that not-for-profit courses do not want to make a profit and private clubs have higher expenses. He analyzed daily fee courses for golf rounds and chose 38,000 rounds (versus 32,000 rounds actual) at \$32.50 per round and cart use at \$12.00 per rider. Using miscellaneous revenue from the National Golf Survey, he determined a net operating income of \$615,600.00. With a capitalization rate of 11%, the indicated value by the income approach is \$5,600,000.00, including personal property.

17. Under cross-examination Mr. Emmerling testified that the following items are not included in his report: His adjustments to comparable sales, the total land area is incorrect by 1.5 acres and a market value of the manager's residence. He testified the tennis "bubbles" were not included in his cost approach. He erroneously used 1978 as the year of construction rather than 1966. He testified that the age difference might have an effect on his value.

18. Upon questions from the Board, Mr. Emmerling testified that there is no way to measure a value difference between leased fee and fee simple interest.

19. Petitioner is requesting a 2001 actual value of \$4,260,000.00 for the subject property.

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

Market:	\$6,300,000.00
Cost:	\$5,370,240.00

21. Respondent's witness did not present an income approach for the subject.
22. Based on the market approach, Respondent's witness presented an indicated value of \$6,300,000.00 for the subject property.
23. Respondent's witness presented three comparable sales ranging in sales price from \$5,100,000.00 to \$5,700,000.00 or \$185,185.00 to \$316,667.00 per hole. The sales range in size from eighteen to twenty-seven holes and from 192.0 acres to 213.41 acres. After adjustments were made, the sales ranged from \$325,926.00 to \$368,333.00 per hole.
24. Mr. Stuhlman testified that there were a limited number of sales in the metro area within the last five years. He testified Sale #1 is a public 18-hole course referred to as "Deer Creek" located in Littleton. It sold February 2000 for \$5,100,000.00 and has 151.122 acres and was for the golf course only. The land for maintenance buildings and the driving range was purchased separately. This sale was adjusted for age and lack of support facilities. Mr. Stuhlman testified Sale #2 is Pinehurst Country Club, a private 27-hole course on 213.41 acres. It sold in August 1996 for \$5,500,000.00 and did not include the clubhouse, pool or tennis facilities. This comparable was adjusted for date of sale, an additional 9 holes at the course and the lack of support facilities. Sale #3 is a public 18-hole course called "Ute Creek" in Longmont. It sold as a sale-leaseback in August 1995 for \$5,700,000.00. It has 192 acres and a small clubhouse. This comparable was adjusted for date of sale, lack of support facilities, terms of sale and age, as the course is newer in year of construction.
25. Mr. Stuhlman testified that the adjusted sales price range is \$325,936.00 to \$368,333.00 per hole, with an average of \$353,864.00 per hole. He gave most weight to Comparables #1 and #3 as they had fewest adjustments and have a similar indicated value.
26. Mr. Stuhlman testified that he concluded a value for the subject at \$350,000.00 per hole, or \$6,300,000.00 for eighteen holes. As a test of reasonableness he compared the value of the subject at \$5,445,750.00, to the total value per hole at \$6,300,000.00 and he concluded the subject is appropriately valued.
27. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$5,370,240.00.
28. Mr. Stuhlman testified that the cost approach value of \$5,370,240.00 does not include the value of the single-family residence. He believes the value of the residence would increase the cost approach approximately \$100,000.00.
29. Mr. Stuhlman evaluated 9 sales of golf course land sales and 17 open space sales. He testified that he uses a land value of \$10,000.00 per acre for all golf courses in the county. Regarding the subject property, he did not make any individual adjustments to the land sales. Mr.

Stuhlman believes adjustments are included in the land values. He considered the value range and concluded \$10,000.00 per acre for the subject property.

30. Mr. Stuhlman testified that he used a \$90,100.00 depreciated value per hole for the subject property. This figure came from a previous Board of Assessment Appeals hearing for the 2000 tax year. No other support for this value was presented.

31. Mr. Stuhlman concluded to a value of \$5,700,000.00 for the subject properties.

32. Respondent assigned the following actual value to the subject properties for tax year 2001:

<u>Schedule Number</u>	<u>Actual Value</u>
066346	\$1,529,310.00
082377	\$3,901,440.00
203570	<u>\$ 15,000.00</u>
Total Value	\$5,445,750.00

## **CONCLUSIONS:**

1. Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2001 valuation of the subject properties was incorrect.

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 has an ambience and location that would be inconsistent with "daily fee" courses. Colorado Revised Statutes require that properties be valued for ad valorem purposes according to their actual 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. Respondent did not present an income approach value.

3. The Board reviewed sales presented by both parties in the market approach; the Petitioner presented only one sale, the Respondent presented three sales. One sale is not sufficient support for a value. The Respondent's three sales had aspects that rendered them non-comparable to the subject property. As a result, the Board could not rely on the sales comparison approach presented by either party.

4. The date of value for Mr. Emmerling's appraisal report is January 1, 2001 rather than the statutory level of value date of June 30, 2000. When questioned by the Board Mr. Emmerling testified that his value would not change regardless of the June 30, 2000 date versus the January 1, 2001 date. Petitioner's cost approach was tainted with post base year information and the Board could not rely on it with confidence. The Board only gave weight to data in the report derived from the appropriate period prior to June 30, 2000.

5. The Board is aware of the difficulty in finding truly comparable golf course land

sales. The land sales and testimony presented were reviewed; Petitioner presented only one sale and the Respondent presented nine land sales and seventeen open space sales. The Board found some of these sales inappropriate due to the terms of sale, size or included amenities. However, the Board agrees with Respondent's land value of \$10,000.00 per acre.

6. The Board did not agree with the Respondent's value estimate of \$90,100.00 per hole, a value that was determined by the Board of Assessment Appeals in a 2000 tax year hearing for a different base year. No other data was presented to support the \$90,100.00 figure.

7. The Board agrees with the classification and ranking of the subject property as a Class III, according to Marshall & Swift Cost Service (M&S) guidelines. A Class III course is described as a typically private club with a driving range on undulating terrain, bunkers at most greens, average elevated tees and greens, and some large or mature trees. The December 1999 cost table from M&S shows a replacement cost per hole ranging from \$86,000.00 to \$117,750.00. Petitioner's witness chose a replacement cost new of \$125,000.00, outside the range shown by M&S. The Board estimates the value per hole at \$100,000.00. The Board also depreciated the irrigation system using 30% of the per-hole cost for the replacement cost new as noted in the M&S cost description and used 60% to reflect the age and condition of the irrigation system; Petitioner's witness reduced the subject value for a budgeted amount of repairs for the irrigation system but the Board was not convinced that Petitioner's reduction calculation was supported.

8. The Board is not convinced the location of the clubhouse in a geological hazard overlay area has a negative affect on value. The clubhouse was constructed in 1966 and has not been damaged by a landslide during that time. It underwent a major renovation in 1999. The investment of over \$3,000,000.00 for the remodeling of this structure indicates owner confidence in its stability. The Board concluded the risk of damage by landslide is minimal, if any.

9. The Board used the Respondent's cost calculations for the subject property's golf course buildings, as well as the \$100,000.00 market approach value for the dwelling. Petitioner's witness did not give an opinion as to the dwelling's market value, and admitted to certain errors, including the age of the clubhouse in his cost approach.

10. The Board's calculation for the subject property's value is as follows:

Per Hole Cost	
\$100,000.00 x 18 holes	\$1,800,000.00
Less Depreciation of Irrigation System	
(\$1,800,000.00 x 30%) x 60%	- 324,000.00
Depreciated Value of Golf Course	\$1,476,000.00
Add Land Value (\$10,000 per acre)	1,644,930.00
Add Improvement Value	2,103,510.00
Add Residential Dwelling Value	
(Via Market Approach)	<u>100,000.00</u>
Total Value	\$5,324,440.00

11. The Board considered all admitted evidence and testimony and has concluded the Respondent has overvalued the subject property. The Board concluded that the 2001 actual value of the subject property should be reduced to \$5,324,440.00.

**ORDER:**

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2001 actual value for the subject property as indicated above.

The Jefferson County Assessor is directed to change his records accordingly.

**APPEAL:**

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

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

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



DATED and MAILED this 29<sup>th</sup> day of July, 2003.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

Karen E. Hart

*Rebecca Hawkins*

Rebecca A. Hawkins

This decision was put on the record

JUL 29 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

