

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RED JUNCTION, LLC.,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Howard R. Stone, Esq. Address: 1667 Cole Boulevard, Suite 100, Bldg 19 Golden, Colorado 80401 Phone Number: (303) 233-7838 Attorney Reg. No.: 22351</p>	<p>Docket Number: 40701</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 10, 2003, Judge Nuechter and Karen E. Hart presiding. Petitioner was represented by Howard R. Stone, Esq. Respondent was represented by Valerie Robison, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**The Golf Club at Redlands Mesa
364 West Ridges Boulevard
(Mesa County Schedule Nos. 2945-202-45-007, 2945-202-46-015, 2945-203-01-040, 2945-203-01-043, 2945-203-01-044, and 2945-203-01-046)**

Petitioner is protesting the 2002 actual value of the subject property, an 18-hole, public, daily fee, championship golf course located near Grand Junction, Colorado in the Redlands Mesa subdivision.

ISSUES:

Petitioner:

Petitioner contends that the subject property is overvalued. The best method to value the subject is the income approach. Respondent used the cost approach to value the subject, which far exceeds the actual cost to build the golf course.

Respondent:

Respondent contends that the cost approach was used to value the subject property; though the market and income approach were considered. Petitioner's reported costs do not include all of the costs to construct the subject property.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. James A. Eller, managing partner of Red Junction LLC, testified that the 18-hole golf course sits on 200 plus acres and was designed by Jim Engh. It is a public, daily-fee course. The property includes a maintenance facility and a clubhouse. The surrounding area is a 425 lot residential component that is totally separate from the golf course; it is owned by a separate entity.

2. Mr. Eller testified that Exhibit B is a copy of an AIA agreement with the contractor, RBI-Golf, for the construction of the golf course. The total contract price is \$3,775,033.00. RBI Golf performed the basic construction of the golf course itself, but did nothing on the clubhouse or maintenance facility. Exhibit C is a copy of an AIA agreement with Norris Homes, who built both the structures on the property. The total contract was \$1,631,935.00.

3. Mr. Eller testified that no other construction companies were employed, but some other parties did ancillary services, such as surveying, etc. The total cost to construct the golf course was \$7,296,017.00, which includes three items that were for the golf course corridors, clubhouse site, and the maintenance building site. The total land cost for these three items was \$1,250,000.00.

4. Mr. Eller believes the general value of the golf course itself should be \$4 million.

5. Under cross-examination, Mr. Eller testified that the golf industry works off a multiplier from revenue. The calculation would be the 2002 net operating income of \$480,000.00 times a multiple of 6 or 7, which arrives at a value of \$3.5 to \$4 million.

6. Mr. Eller testified that he became managing partner of the subject property upon inception in November of 1999, just before construction commenced; he supervised the construction of the course. Redlands Mesa Golf Course is a beautiful course and has gotten good publicity. Slope is a rating system for golf courses to rate their difficulty for comparison with other golf courses; the subject is rated with a 135 slope. Exhibit D includes some soft costs that are not included in the AIA documents. Exhibits B and C vary from the AIA documents in Exhibit A-3.

7. Mr. Eller testified that there is an asphalt parking lot, the costs of which he believes are included in the categories of rough grading, final grading allowance, and exterior flatwork; walks and drives allowance. Exhibits B and C were the final AIA's from RBI Golf and Norris Homes; there were no subsequent AIA's from those companies. There is no swimming pool or tennis court on the subject property. Ron Austin is a part owner of the subject; he contributed land to the venture as part of his equity; his contribution was \$1 million and some land.

8. In redirect, Mr. Eller testified that no matter how beautiful or wonderful or what is written in magazines, the net operating income is what is important to the value of the golf course. The economics of golf courses changed from 1998 to 2001; the values went down considerably.

9. Upon questioning by the Board, Mr. Eller testified that his value is based on post assessment data, such as net operating income and expenses. The maintenance building and clubhouse opened in December 2000. The course had a "soft" opening in May of 2001 and the course opened for full play in July of 2001.

10. Petitioner's adverse witness, Mr. E. Nelson Bowes, MAI, CRE, PE, of Messick and Bowes, testified that he completed an appraisal of the subject property for the Respondent. He did not use the income or market approach; he used the cost approach. He applied a 63% depreciation factor to the cost of construction of the golf course.

11. Mr. Bowes used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$6,640,000.00.

12. In cross-examination, Mr. Bowes testified that he disagrees with some of Petitioner's costs. He requested the actual costs to construct the golf course. The original costs he received were \$3.9 million and did not include all of the costs. On February 24, 2003, he received costs including the building but still lacking in all costs. The costs for the building were for 4,200 square feet; the building is actually 6,100 square feet with a full basement. On March 7, 2003, a different set of actual costs were submitted. He believes the soft costs including the architectural fee, legal fees, engineering, and surveying are understated. For example, Mr. Eller's compensation is missing. There is no chance that the subject could be engineered for \$51,000.00. No interest expense is included from the loan, as well as no environmental costs, taxes, or utility fees during construction. He believes there may have been some expenses that were "in-kind". Mr. Bowes' cost estimates are on Page 50 of Exhibit #2. His cost estimates were \$12,000,000.00, which he believes are reasonable.

13. Regarding the building costs, he has had trouble getting Marshall & Swift to work for recreational properties, including golf courses.

14. Mr. Bowes testified that he looked at the income approach; three of the five courses shown on page 56 are losing money. Public owned courses try to keep green fees low; private courses try to keep their profit low. His opinion regarding the income approach for this property is that there are a number of projections that he does not think will come about; it is speculation and does not constitute value. The course sits in the middle of 300-400 residential lots. He thinks it will be operated for a while and then be sold to members. A golf course is not worth what it cost, but the real estate next to it benefits.

15. Mr. Bowes testified that he did not ask for a subpoena of Petitioner's records. There is no longer a criticism of the architectural costs. He has no knowledge that Red Junction had additional costs than Petitioner's Exhibit D. He believes the architect fee is what they paid; his cost was \$800,000.00 versus \$400,000.00 actual. There are soft costs that are not included in Exhibit D; the soft cost totals are not sufficient when compared to usual soft costs for other golf courses. His costs match those of his comparable golf course costs. His costs on page 50 of Exhibit #2 include indirect and soft costs.

16. Mr. Bowes testified that his cost approach comparables are empirical. He did not know what the actual costs of the subject property were; he still does not know. He knows that all of the costs are not there. He compared the actual costs to his comparable course costs. Based on costs at comparable golf courses, he does not believe that all of the actual costs for the subject property were reported to him. His land cost of \$1,220,000.00 is based on land sales next door at \$6,000.00 per acre.

17. Regarding the suspected missing costs, Mr. Bowes testified that he would expect expenses for a feasibility study and appraisal fees. He is a professional engineer and is aware of the kind of work done by engineers. The engineering costs are not realistic.

18. Petitioner's witness, Mr. Daniel M. Conway, President of THK Associates, Inc., a golf course consulting firm, presented the following indicators of value:

Market:	\$4,000,000.00
Income:	\$4,560,000.00
Cost:	\$7,300,000.00

19. Mr. Conway testified that although there are three approaches to value, most golf-course appraisers recognize that the income approach is the only accurate approach to value. Those who buy golf courses use the previous year's net income times a multiple of about 7.5.

20. Mr. Conway testified that he was educated as an appraiser but has chosen not to get his appraisal license "because I have more freedom in terms of making presentations like this without having the baggage of being a certified appraiser."

21. Mr. Conway represented himself as an appraiser and prepared a "Complete Appraisal, Self-Contained" report; however, he is not a licensed appraiser and therefore his report was objected to by Petitioner's counsel and was not admitted into the record; he held himself out to be an appraiser, which he is not.

22. Petitioner's witness presented an income approach to derive a value of \$4,560,000.00

for the subject property.

23. Mr. Conway testified that he valued the subject property using the income approach to value. They estimated that the subject could capture about 31,000 rounds of golf per year, or 18% of the market. They suggested a greens fee of \$39.15 and other sources of revenue such as practice range, cart rentals, pro-shop sales and concession sales. They estimated that in the fourth year of operation, the stabilized year of operation, the total revenue would be \$2,025,000.00. The operating management maintenance in his equipment leasing expense will be \$1,343,000.00, with a net operating income of \$682,000.00. He used a discount rate of 15 percent and a terminal capitalization rate of 12 percent for a current value of about \$4,560,000.00.

24. Based on the market approach, Petitioner's witness presented an indicated value of \$4,000,000.00 for the subject property.

25. Mr. Conway testified that using sales comparables in golf has absolutely no value to people that buy and sell golf courses. However, he looked at three golf course sales and after adjustments, determined a value of about \$4,000,000.00.

26. Petitioner's witness presented a cost figure, based on a full set of cost estimates, for the subject property of about \$7,300,000.00.

27. In his reconciliation he did not put any weight on the cost or market approach. Every course is different, which makes the market approach unreliable. The cost approach is also very irrelevant. People that buy golf courses do not care what the cost to build it was; there are sometimes ulterior motives.

28. Regarding differences with Mr. Bowes' cost approach, Mr. Conway testified that Exhibit D appears to be a reasonable cost for the subject property and looks very complete. He thinks the interest component is included in the costs and would be about \$75,000.00 or \$80,000.00.

29. Mr. Conway does not consider Devil's Thumb or courses located in Vail to be similar to the subject course. He believes the feasibility of making the subject property golf course a private course is "ridiculous"; you would never sell the memberships. He has never seen a golf course valued by the cost approach. Mr. Conway testified that Jimmy Engh prides himself on being a golf course designer that does his own construction drawings and does not need engineering involved in the project. He confirmed the construction costs with the owner and the contractors.

30. Under cross-examination, Mr. Conway admitted that there was no income for the subject property for the time period in this case but it was easy to estimate them. He does not think that the sales approach is ever appropriate for valuing golf courses. He used three golf course sales to arrive at his market approach value, but he cannot recall what the sales prices were. Slope has nothing to do with value. He did not do a feasibility study of the subject property.

31. Petitioner is requesting a 2002 actual value of \$4,000,000.00 for the subject property.

32. Respondent's witness, Mr. E. Nelson Bowes testified that he disagrees that the cost approach is not appropriate. Courses consistently sell for 30 cents on the dollar. The expensive

courses tend to earn more money, and thus he can predict a value. Cost is consistent. He did not try to move values from Vail to the subject property; he did move costs with adjustments. The value for the subject property, as of June 30, 2000, is \$6,640,000.00.

33. Respondent assigned the following actual values to the subject property for tax year 2002:

<u>Parcel Number</u>	<u>Actual Value</u>
2945-202-45-007	\$2,242,950.00
2945-202-46-015	318,460.00
2945-203-01-040	576,650.00
2945-203-01-043	513,020.00
2945-203-01-044	268,480.00
2945-203-01-046	<u>2,092,160.00</u>
Total Value	\$6,011,720.00

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the tax year 2002 valuation of the subject property was correct.

2. Respondent's witness, Mr. E. Nelson Bowes, presented a well-organized and well-supported appraisal report.

3. Petitioner's market approach was brief and the adjustments were not detailed or supported. Also, both Petitioner and Respondent agreed that the sales comparison approach was not particularly useful in the valuation of golf courses.

4. The Board agrees with Petitioner that the income approach is appropriate for a public daily-fee course such as the subject. However, the subject property does not have any operating history as it did not fully open for play until July of 2001, which was after the level of value date of June 30, 2000. Petitioner's income valuation was based on future speculated income, something that the Board cannot consider as it was data estimated from beyond the base year date. There was no presented income approach using comparable income and expense base year data from other public, daily fee courses in the subject's area.

5. The Board was most convinced by Respondent's cost approach. We were convinced that not all of the costs to actually construct the golf course were included in Petitioner's exhibits. Mr. Bowes included support of his cost estimates through comparisons of actual costs of other courses. Petitioner presented their purported actual costs but did not adequately convince the Board as to why their costs were so much less than other courses. We were, however, convinced that the golf architect fee used by Mr. Bowes in his analysis should be reduced to \$400,000.00. After

recalculating his cost approach for this adjustment, the value was still higher than the assigned value of Respondent.

6. After careful consideration of all the testimony and evidence presented, the Board affirms Respondent's assigned value of \$6,011,720.00.

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 23rd day of April, 2003.

BOARD OF ASSESSMENT APPEALS



Judee Muechter

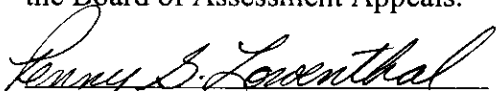


Karen E. Hart

This decision was put on the record

APR 23 2003

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


Penny S. Lowenthal