

<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>BOULDER MUNICIPAL SPORTS CENTER,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>BOULDER COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Richard G. Olona, Esq. Olona &amp; Associates, P.C.</p> <p>Address: 7472 S. Shaffer Lane, Suite 130 Littleton, Colorado 80127</p> <p>Phone Number: (303) 433-1699</p> <p>Attorney Reg. No.: 17940</p>	<p><b>Docket Number: 42798</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 24, 2004, Rebecca Hawkins and Karen E. Hart presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Robert Gunning, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**7350 Clubhouse Road, Boulder, Colorado  
(Boulder County Schedule Nos. R0031861, R0031867, R0031870, R0038035,  
R0038038, R0068925, R0068179)**

Petitioner is protesting the 2003 actual value of the subject property, an 18-hole golf course with a 9-hole par 3 course and improvements consisting of a clubhouse, maintenance shed,

miscellaneous support buildings, tennis court and swimming pool. The subject property is a private, non-equity club.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the land sales used by Respondent resulted in an excessive subject property land value, due to the use of open space sales. The golf course improvement values lack functional and economic obsolescence adjustments. The sales comparison approach has two sales that support Petitioner's requested value. The Petitioner's income approach has a more reasonable sell-out period than Respondent's.

### **Respondent:**

Respondent contends that the subject property was correctly valued considering all three approaches to value, with primary reliance on the cost approach. The sales comparison approach was considered but given no weight. The income approach was used as a test of reasonableness and supports the cost approach conclusion.

## **FINDINGS OF FACT:**

1. The subject property is a private, non-equity golf club consisting of an 18-hole championship style golf course and a 9-hole par three golf course, on 189.71 acres of land, divided into seven parcel numbers by the Boulder County Assessor's office. Buildings on the property include a 7,920 square foot maintenance shed, 1,905 square feet of support buildings, as well as a swimming pool and a 32,470 square foot tennis facility.

2. The clubhouse is 30,226 square feet in size and was basically gutted and renovated in 2000 and 2001; the remodeling was 100% complete as of January 1, 2003, the assessment date. The actual renovation cost was \$5.8 million including furniture, fixtures and equipment (FF&E).

3. The course was designed by Press Maxwell and is of native push-up green construction. It is the oldest course in the area.

4. Petitioner's witness, Mr. Andy Chaikovsky, a real estate developer and President of Vista Ridge Development Corporation, testified that he planned and built the Vista Ridge development on 900 acres. It included a daily-fee golf course of USGA modified sands construction and was built to enhance the residential component of the development. Mr. Chaikovsky testified that his overall costs were about \$5 million for the golf course, not including the land, buildings, or soft costs involved; the soft costs were approximately \$1 million.

5. Petitioner's witness, Mr. Tom O'Malley, General Manager and developer of Saddleback Golf Club, testified that the Saddleback course was built on ground over coal mines and that sales of the residential component of the development paid for the course. It is an 18-hole championship course. The construction costs were \$3 million for hard costs and \$1 million for soft costs. It is a USGA California style green construction.

6. Petitioner's witness, Mr. Gregory DeRosa, Chief Operating Officer and General manager of the Boulder Country Club, testified that his job is to run the business to maximize profit; he is expected to maximize the income and manage the expenses.

7. Mr. DeRosa testified that as of January 1, 2003, the golf course condition was challenging due to the drought. The greens were hard and firm, due to the nature of the construction and the drought. One of the limitations is the push-up greens construction as it relates to grass type. He cannot grow the same grass as can be grown on USGA courses. The nature of the water rights is such that their water does not flow until April, which makes it difficult to rejuvenate the grass. The irrigation system is not in good condition; it is sufficient but is not near industry standards and is a huge concern. The system is labor intensive.

8. Mr. DeRosa testified that there are three categories of memberships. As of January 1, 2003, the full golf membership was capped at 500 and was nearly sold out, they were near the 100-member Category III cap, and had between 170 and 180 Social memberships, which caps at 200. They sold 22 memberships at \$40,000.00, but the club financed the majority of those memberships. In the winter of 2002, the full golf membership numbers were down to the 480's. He did not sell any \$40,000.00 full golf memberships to new members in the six months prior to January 1, 2003. The least expensive membership was sold at \$35,000.00. There are too many golf courses and competition is fierce, the economy is difficult, and the membership is non-equity; this affected their ability to sell memberships.

9. Mr. DeRosa testified that there is about \$2 million in deferred maintenance, including the irrigation system. The bunkers are in horrible condition. They use their profit to fund the maintenance; there is not an abundance of profit. They have a \$5.8-\$6 million operating budget with a small margin for error. A loss of 17 memberships wipes out his margin of error in his budget.

10. Petitioner's witness, Mr. Stephen R. Hughes, a MAI with Hughes and Company, testified that he specializes in golf course appraisal. He places little reliance on the cost approach, unless it is a newer property. In a core-designed course that has utility for something other than golf, he will back into a land value using the income approach, which he tends to primarily rely upon. For a private country club, he will first look at the actual operating statements; in some cases a private club will generate enough cash to capitalize and most private clubs are valued that way today. He does not use the Marshall & Swift (M & S) cost service to value golf courses; he uses other sources that he believes provide better information. He believes that the M & S costs can be misleading. Mr. Hughes testified that adjustments should be made when using USGA greens costs to value a push-up greens course. Location and quality are important factors for adjustments in the sales comparison approach.

11. Mr. Hughes testified that the golf market accelerated in the late 1990's. Developers

continued to build courses more rapidly than the rounds of play increased. Around 2000-2001, the golf market crashed. Investment rates (capitalization rates) in golf courses went from 9-10.5% up to 11-13%. He has not exclusively used the gross income multiplier; he uses it only as a secondary method.

12. Mr. Hughes testified that he has not inspected or appraised the subject property, nor rendered an opinion of value.

13. Petitioner's witness, Mr. Jeff Monroe of Tax Profile Services, Inc., testified that golf course land sales should be used to value the land. However, none are available, so the next selection of sales should be agricultural land sales that are five years from development.

14. Referring to page 29 of Petitioner's Exhibit A, Mr. Monroe presented a cost approach to derive a market-adjusted cost value for the subject property of \$5,139,800.00.

15. Mr. Monroe testified that the subject property should be valued based on its current construction, native soils push-up, using replacement costs, not reproduction costs. There should be 30-40% of the per-hole cost depreciation on a 20-30 year life. The more modern construction is USGA modified sands. A modern course would receive a 15-year economic life on 70% of the per-hole cost.

16. Mr. Monroe testified that there is an oversupply of golf courses in the Denver Metro area. Regarding the income approach, a membership club should be valued as though it is for profit, or by using daily-fee course data. Additionally, there are business fixtures in the buildings that are on the personal property rolls. If the classification of the property is a country club, then the value of the business and fixtures must be removed, including tangible and intangible properties. Petitioner used a 21% capitalization rate to deduct the personal property contribution to the income stream.

17. Mr. Monroe testified that the cost approach sets the highest value for the subject and should be used as a reasonableness test. The land should be valued at \$5,000.00 per acre. He prepared a segregated cost for the subject property. Pages 11 and 12 of Petitioner's Exhibit A show the segregated cost analysis for both the 18-hole course and the 9-hole course. He used an effective life of 20 years and determined a net depreciated value of \$1,598,320.00 for the 18-hole course and \$446,630.00 for the 9-hole course.

18. Mr. Monroe cited several sources for his segregated cost approach. The Golf Course Construction Costs for Region 4, published by the Golf Course Builders Association (GCBA), which is the last page of Respondent's Exhibit 7, shows a segregated cost total of \$3,671,952.00 for a normal golf course. His excavation cost is much lower than the GCBA costs as he is of the opinion that the cost would be a pro-ration of the excavation costs needed for the entire community, not just the golf course. His overall course cost is nearly half the GCBA reported costs due to differences in irrigation system, bridges, cart paths, bulk heading, sod, square footage of greens, and tee box costs

for the subject property. Mr. Monroe testified that that the GCBA costs refer to USGA construction for a stand-alone golf course, not the subject property's native soils push-up greens, which is a lesser cost. The push-up green construction cost is about 12.5% of a USGA certified course cost.

19. Mr. Monroe testified that he would give equal weight to the income and market approach, with support being lent by the cost approach.

20. Petitioner's witness, Mr. Tom McElhinney, Tax Profile Services, Inc., presented the following indicators of value:

Market:	\$4,785,000.00
Cost:	\$4,873,050.00 or \$5,139,800.00
Income:	\$5,006,000.00

21. Based on the market approach, Petitioner's witness presented an indicated value of \$4,785,000.00 for the subject property, or \$150,000.00 to \$175,000.00 per hole.

22. Petitioner's witness presented two comparable sales ranging in sales price from \$2,875,000.00 to \$3,400,000.00 and in size from 154.527 to 193.68 acres. After adjustments were made to the sales, the indicated price was \$150,000.00 to \$175,000.00 per hole.

23. Mr. McElhinney testified that there were two sales of golf courses during the base period. Sale one is located in Monument and is known as King's Deer Golf course. The course sold for about half the construction cost. The second sale is Eagle Trace Golf Course, which is a native soils course but lacks the type of clubhouse located on the subject property.

24. Mr. McElhinney testified that the level of value date is June 30, 2002. They researched the state of the golf industry in Colorado, including private and public course data. There are 93 courses in the studied area, both public and private; 41 are municipally owned, three times the national average. The quantity of high quality public courses with reasonable daily fees makes the competition factor severe for a private golf club. The increase in the number of golf courses has caused the number of rounds played per course to decrease. Private clubs are finding increased difficulty in selling memberships.

25. There are severe restrictions on the subject property, which is currently operating under a special use permit. The facility cannot be increased in size. The subject is a non-conforming use.

26. Referring to page 9 of Petitioner's Exhibit A, Mr. McElhinney presented a cost approach to derive a market-adjusted cost value for the subject property of \$4,873,050.00.

27. Mr. McElhinney testified that the major difference in the cost approach is Respondent's land value. There were no golf land sales during the base period. As a native soils push-up course, little dirt work was required. There are no built-up greens or tee boxes. The Par 3

course is an extraordinarily short course. There is a separate membership level available to play the Par 3 course.

28. The subject property's irrigation system has parts from four systems. It is mostly a manual block system; there is no way to control each sprinkler, it requires extra labor. He chose the \$110,000.00 per-hole costs from Marshall & Swift, which is the mid-point of the range; the costs are for modified sands courses. The course is in good condition. He agrees with Respondent's original improvement value.

29. Petitioner's witness presented an income approach to derive a value of \$5,006,000.00 for the subject property.

30. Mr. McElhinney testified that he gave heavy weight to the cost approach, as there is resistance to valuing a private club using an income approach. Page 22 of Petitioner's Exhibit A provides comparable club information regarding gross revenues, actual expenses, and number of members. The data indicates that the expenses are increasing faster than the revenue and that memberships are declining. The pool and tennis amenities are not revenue makers, though they help bring new members to the club. The food and beverage amenities are moneymakers.

31. Under cross-examination, Mr. McElhinney testified that he is a Certified General Appraiser. Exhibit A is not represented as an appraisal. The subject property would not be replaced as a push-up greens course today. His land value is \$5,000.00 an acre and there are no land sales presented to support his value. He looked at many sales in Boulder County, but could not find sales he believes are comparable to the subject property as land underlying a golf course. He is not aware of any deed restrictions to the subject property. The special use permit does not allow development. He believes the land is restricted from other uses. The special use permit application restricts expansion of the clubhouse.

32. Mr. McElhinney did not specifically trend the golf course improvement costs by the trend factors or the local cost modifier. He does not believe that data is available to determine local costs for the subject property. The golf course condition is adequate, but it is labor intensive. The subject will require a new irrigation system as soon as the membership can afford it. Most of the clubhouse remodel was focused on the mechanical systems. His improvement value came from the Assessor's records.

33. Mr. McElhinney testified that neither of the sales used in his market approach were private country club properties. He believes the Monument sale was an arms-length transaction; he is not aware of any seller duress. The clubhouse on this comparable is much smaller than the subject's. The second sale is more similar to the subject, though the clubhouse and acreage are smaller and there are no amenities such as tennis courts or swimming pool. He made no adjustments to the sale. He assumes the subject has adequate water. He understands that the two comparable sales have adequate water rights.

34. Mr. McElhinney testified that he did not perform an exact income approach. He did not capitalize the income. The subject property is a non-profit corporation. The membership was fully sold during the data-gathering period. He admitted that multiplying the gross revenue

multiplier from the higher end of the range (noted on page 28 of Petitioner's Exhibit A) by the subject's revenue results in a value that is similar to Respondent's assigned value.

35. Petitioner is requesting a 2003 actual value of not more than \$5,100,000.00 for the subject property.

36. Respondent's witness, Mr. Graham Scott Billingsley, Boulder County Land Use Director, testified that the subject property is zoned rural residential. It allows one unit per gross acre, due to availability of public water and sewer. He is familiar with the special use permit for the subject. If the property were vacant, it could legally be permissible for residential use with a density of one single-family residence per acre. He is not aware of any government restrictions and his department is responsible for any such restrictions. He believes Petitioner has reached the maximum build-out for improvements. Any principal use other than for mining or agriculture must have development rights for use.

37. Under cross-examination, Mr. Billingsley testified that he was involved in the staff discussions, decisions and public hearings for the subject property's special use permit process. He agrees with Paragraph A, but not with Paragraph B shown on page 4 of Respondent's Exhibit 4. The golf course is an open space that provides an activity for people interested in golf and makes their property more valuable as an amenity. To change the current use to residential, a subdivision application would have to be filed and public hearings would have to be held.

38. Respondent's witness, Mr. B. Allan Day, a Certified General Appraiser and Chief Commercial Appraiser with the Boulder County Assessor's Office, presented the following indicators of value:

Cost:	\$9,567,700.00
Income:	\$9,862,400.00

39. Mr. Day testified that he prepared a complete appraisal in a summary format. He considered all three approaches to value. He inspected the subject property on February 11, 2002. The subject property is located in the Gunbarrel area of Boulder County. The clubhouse was remodeled and virtually taken to the shell, which was 20% of the original structure remaining, in his opinion. The remodeling portion was 80%. His combined year built calculation resulted in an effective age of nine years as of the assessment date. The subject is located in a very upscale residential neighborhood and has mature landscaping.

40. Respondent's witness did not present an indicated value for the subject property based on the market approach.

41. Mr. Day testified that he considered the comparable sales approach but did not rely on it in his value conclusion. The subject is a private country club property and the two sales in his report are not country clubs and do not have amenities similar to the subject.

42. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$9,567,700.00.

43. Mr. Day testified that he valued the land, developed the improvement costs less depreciation, and determined a golf course improvement value. He used replacement costs, not reproduction costs. Page 16 of Respondent's Exhibit 1 shows his land sales, all of which are used for agricultural purposes. He adjusted Sale 1 for development rights, as shown on page 17 of Respondent's Exhibit 1. His \$75,000.00 Transfer Development Rights (TDR) adjustment \$75,000.00 was based on discussions with personnel from the Boulder County Land Use department and the Open Space department. The sales were time trended to June 30, 2002. Sales 2 and 3 had no development rights; he adjusted them downward for water rights as the subject property has water rights. Boulder County purchased Comparable Sale 1. Boulder County and the City of Boulder jointly purchased the land Comparable Sales 2 and 3. He confirmed that the sales were arms-length, market sales. He believes a location adjustment is not required; they are located within 10 miles of the subject property. He considers them to be low-density properties. One of the sources he relied upon for the low-density comparable sales applicability was the Division of Property Taxation Appraisal Course 230, Respondent's Exhibit 2.

44. Mr. Day testified that he looked to Marshall & Swift (M & S) for costs for different types of properties. He believed the M & S golf course costs were low, so he contacted local sources to develop a multiplier of 2.08 for the Category III M & S costs. His concluded per hole cost was \$226,200.00. He used the M & S costs for the nine-hole course, as he did not have any local cost figures. He used the upper end of the M & S Class I, per-hole estimate. The depreciable items are 30-40% of the value with an estimated 3-year remaining life at 85% depreciation, which is primarily due to the irrigation system. He could not find a local cost for a native push-up green construction. He believes he should have made an adjustment for the difference in construction.

45. Mr. Day testified that the subject clubhouse was essentially rebuilt. He felt it was more reasonable to use the higher end of the M & S cost range. The remaining improvements are based more on their actual age. He is concluding to a larger improvement value in his report than was assigned. His files reflected mass appraisal values and he believes they were based on an incorrect year built.

46. Respondent's witness used the income approach to derive a value of \$9,862,400.00 for the subject property.

47. Mr. Day testified that he used a 13% capitalization rate as shown in the Integra Realty Resources information contained in the addenda of Respondent's Exhibit 1. He removed both the return of and return on personal property.

48. Mr. Day testified that he considered all three approaches to value and relied upon the cost approach to arrive at an opinion of value of \$9,567,000.00.



49. In cross-examination, Mr. Day testified that he did not speak to anyone at the golf course subsequent to his inspection of the subject property. The reason for the value increase in the clubhouse was the remodel.

50. Regarding his cost approach, Mr. Day applied 5% functional obsolescence to the clubhouse. He did not apply any economic obsolescence to the subject, as it would mostly be reflected in the property's income. Regarding land value, his only adjustments were for development rights, water rights and market conditions. He believes his land sales are similarly restrictive as the subject property. As indicated on page 21 of Respondent's Exhibit 1, he classified the subject property as a Class III course. The M & S range for this class is \$91,000.00 to \$126,500.00 per hole. He admitted that his value is more than twice as high as the M & S values. He used M & S to value the 9-hole par 3 course and the improvements, but did not use M & S for the 18-hole course; he had local costs for the 18-hole portion. The local costs shown on page 21 were derived from courses that are not native soil push-ups. He used the high end of the M & S range for the 9-hole course; it is shorter, simpler, has less bunkers, no irrigation, and less cart paths than the 18-hole, which is a regulation course.

51. Mr. Day testified that the five-year sell-out period is recommended in DPT Course 230. If he used a longer sell-out period, the value would be less. Lesser membership fees would result in a lesser value, but they were not given detail as to what amounts were paid when. Page 19 of Respondent's Exhibit B is identical to his income calculation with a 15-year sellout.

52. On redirect, Mr. Day testified that the improvement value in his report more accurately reflects the subject's value than the value in their records. He accounted for the irrigation system differences in the amount of depreciation given and the estimated three-year remaining life. He used the income approach as a test of reasonableness.

53. Upon questioning from the Board, Mr. Day testified that there were no omitted buildings involved in the valuation change for the buildings. He could not determine an adjustment factor for cost differences between push-up greens and USGA greens due to a lack of information regarding push-up green costs. The water right adjustments were based on actual sale prices reported to him.

54. Respondent assigned an actual value of \$6,700,600.00 to the subject property for tax year 2003.

55. Respondent's adverse witness, Mr. Jeff Monroe, testified that their compensation is both fee and contingency based, which is why his exhibit is not an appraisal, but an opinion of value.

## **CONCLUSIONS:**

1. Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2003 valuation of the subject property was incorrect.

2. Regarding the cost approach, Petitioner's requested land value of \$5,000.00 per acre

was not supported by a comparable sale analysis. Respondent's witness presented three vacant land sales; however, the Board was convinced that the land value should come from the lower end of the range and determined that a value of \$11,000.00 per acre would be more reasonable. This value multiplied by the subject property size of 189.71 acres equals a total land value of \$2,086,810.00.

3. Regarding the cost approach improvement values, Petitioner's witness, Mr. McElhinney, testified that he accepted Respondent's values, though it is unclear what value was accepted as Respondent presented a different improvement value than was originally assigned. The Board reviewed Respondent's presented values and determined that the costs were reasonable, with the exception of the clubhouse. The clubhouse is clearly larger than is typical and the Board was convinced that Respondent's functional obsolescence factor was too small. The Board used a 15% functional obsolescence factor and concluded to a clubhouse value of \$2,398,980.00, for an adjusted total improvement value of \$3,368,290.00.

4. Regarding the golf course improvement value for the 18-hole course, Respondent did not adjust his local cost values for the differences in construction. Respondent's witness, Mr. Day, admitted that he should have made some type of adjustment to his cost value, as the subject property is of native soils push-up greens construction, which has a lower cost than a USGA modified sands construction. The Board determined that Respondent's local cost factor was not supported as it was based on a differently constructed cost basis than the subject. As the subject property has mature landscaping, is a private country club, and is a championship course, the Board determined that the replacement cost new should come from the high end of the M & S cost tables at \$126,500.00 per hole. The Board accepts Respondent's replacement cost new for the 9-hole course of \$562,500.00. The Board accepts Respondent's depreciation factors and recalculated a total depreciated cost for the golf course improvements of \$1,874,070.00.

5. The Board determined that the subject property's total value via the cost approach should be as follows:

Land Value	\$2,086,810.00
Improvement Value	\$3,368,290.00
Golf Course Improvement Value	<u>\$1,874,070.00</u>
Total Value	\$7,329,170.00, or \$271,451 per hole

However, the Board notes that this value conclusion is much higher than the value result of the following two approaches of value and was given lesser weight in the final analysis.

6. Regarding the market approach, none of the presented sales were private golf courses and the improvements were not similar to the subject. However, the Board notes that the Eagle Trace property was also a native soils push-up constructed course, similar in size and age to the subject, and similar in location; it sold for \$188,888.00 per hole. The Board gave some weight to this sale in its final value conclusion, recognizing that it needed upward adjustments for clubhouse size and lack of amenities.

7. Regarding the income approach, the Board was not convinced that a five-year sell-out was reasonable and accepted Petitioner's 15-year sell-out as more reasonable. The Board modified

Respondent's income approach using the 15-year sell-out factor, resulting in a revised income approach value of \$5,085,259.00, or \$188,343.00 per hole.

8. The resulting value range for the subject via all three approaches was large: \$188,343.00 to \$271,451.00 per hole. After careful consideration of all the evidence and testimony, the Board determined that the subject property, due to its age and native soils push-up construction, should transact near the lower end of the value range, at \$200,000.00 per hole, rounded. This value multiplied by 27 holes equates to a final value of \$5,400,000.00.

**ORDER:**

Respondent is ordered to reduce the 2003 actual value of the subject property to \$5,400,000.00.

The Boulder County Assessor is directed to change his/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 9<sup>th</sup> day of June, 2004.

**BOARD OF ASSESSMENT APPEALS**

*Rebecca Hawkins*

Rebecca Hawkins

*Karen E Hart*

Karen E. Hart

This decision was put on the record

**JUN 09 2004**

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

