

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>COUNTRY CLUB OF THE ROCKIES, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>EAGLE COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 64769</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 5, 2015, Diane M. DeVries and James R. Meurer presiding. Petitioner was represented by Richard G. Olana, Esq. Respondent was represented by Christina Hooper, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2011 and 2012.

The property is described as follows:

**Country Club of the Rockies, Inc.
676 Sawatch Drive, Edwards, Colorado 81632
Eagle County Schedule Nos. R018128, R063719, R020825, & R020826**

The property consists of the Country Club of the Rockies, including a private 18-hole 7,143 yard golf course designed by Jack Nicklaus, a 28,291 square foot clubhouse with dining facilities, pro shop, locker rooms, administrative areas, and basement including cart storage, maintenance building, three on-course restroom buildings, and a parking lot. In addition, there is a driving range and practice area including a putting green that support the regulation golf course. Several of the golf fairways run along or across the Eagle River. The Club is a private, non-equity entity capped at 370 members, was constructed in 1984, and is located in the exclusive gated Arrowhead development of Eagle County. Land area consists of approximately 206 acres, zoning is Planned Unit Development (PUD). According to testimony, this PUD restricts the property to the existing golf course use. The facility is in overall good to excellent condition.

Petitioner is requesting an actual value of \$3,400,000 for the subject property for tax years 2011 and 2012. Respondent provided an appraisal reflecting a value of \$6,200,000 for tax

years 2011 and 2012; however, is deferring to the Board of Equalization's (BOE) assigned value of \$4,715,940 for the referenced years.

Mr. Thomas F. McElhinney with Tax Profile Services, Inc. testified on behalf of Petitioner. Mr. McElhinney presented the following indicators of value for the real property associated with the subject:

Market:	\$3,870,000 to \$5,400,000
Cost:	Not Developed
Income:	\$3,400,000

Mr. McElhinney concluded to an indicated value of \$3,400,000 for the subject property, with most weight given to his income approach.

Mr. McElhinney testified that the subject was a "going concern" and that based on industry standards, the income approach to value should be the primary indicator of value for the real property associated with the subject. In addition to the income approach, a cost analysis included in Petitioner's Exhibit 1 was used to support an indication of economic obsolescence. The sales comparison (market) approach was included as a test-of-reasonableness for the income approach.

Relative to the income approach, Mr. McElhinney used the actual income from the facility and industry typical expenses to arrive at an average net operating income (NOI) of \$600,754, excluding any sold membership value. The NOI was capitalized at a 12.8% overall rate including the effective tax rate to arrive at the total assets of the business (*V_{tab}*) of \$4,693,394. Declared personal property including the contributory value of the equipment lease in the amount of \$650,000 and intangible assets in the amount of \$658,281 were subtracted from *V_{tab}* to arrive at a real property value of \$3,385,113 rounded to \$3,400,000.

Mr. McElhinney testified that the overall golf industry and golfer participation has been in steady decline over the past years, and that there is a significant oversupply of golf courses in Eagle County (17 courses), in Colorado, and throughout the country. Petitioner's witness further testified that the initiation fee for the subject was reduced from \$150,000 to \$90,000 during the base period, which further reflected the decline in golf participation. In addition, Mr. McElhinney testified that there was only one use for the subject land (Tract K) per the PUD, and this use was restricted to a golf facility. Mr. McElhinney further testified that the data used in Respondent's cost and market, specifically the terms of the Cordillera sale, approaches to value were flawed, and should not be relied upon to conclude value for a property of this type and that the overall rate used in Respondent's income approach was unrealistically low when compared to published sources from the market.

Respondent's witness, Mr. Ryan Kane, a Certified General Appraiser with the Eagle County Assessor's Office, presented the following indicators of value for the real property associated with the subject:

Market:	\$5,300,000
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Cost:	\$6,376,225
Income:	\$6,200,000

Mr. Kane concluded to an indicated value of \$6,200,000 for the subject property, with weight given to all three approaches to value.

Relative to his appraisal and during direct examination, Mr. Kane presented a cost approach referencing ten land comparables reflecting a mean price of \$53,896 per acre. Adjustments to the comparables consisted of location, acreage, and development potential. After adjustment and with most emphasis on Sale Nos. 1 and 6, Mr. Kane concluded to an adjusted value of \$5,173,375 or \$25,000 per acre. Mr. Kane testified that the current PUD restrictions for the subject property were considered in his analysis. Mr. Kane used data provided by Marshall & Swift to estimate replacement costs for both the golf course improvements, and the vertical improvements. Deducting for physical depreciation, Mr. Kane concluded to a total improvement value of \$8,018,998. A further deduction for external obsolescence was estimated at 85% of depreciated replacement cost based on an analysis of the change in initiation fees for the subject, and two comparable sales from the market, concluding to a value via the cost approach of \$6,376,225. Mr. Kane emphasized that the majority of this concluded value was found in his opinion of the value of the land at \$5,173,375.

Mr. Kane presented a market (sales comparison) approach that included three comparables ranging in sales price from \$2,500,000 to \$21,200,000 including personal property, and in age from 1994 to 2001. After adjustments for personal property, location, size, and amenities, and with the greatest weight on the Cordillera sale, Mr. Kane concluded to a real estate value of \$5,300,000 via the market approach.

Petitioner's witness also presented an income approach to derive a value of \$6,200,000 for the subject property. Within this approach, Mr. Kane referenced three models to conclude to value. The first model was a for-profit analysis using actual income and expenses for the subject facility. Using this model, the net operating income was estimated at \$554,097 which was capitalized at a 8.89% overall rate including tax load resulting in an indicated value of \$6,234,243. Personal property in the amount of \$295,190 was deducted resulting in an indicated value of \$5,939,053 via this model. No deduction for intangible property was considered warranted. Mr. Kane testified that this model was misleading since the subject is a non-profit entity. The second model used a gross income multiplier approach. A gross income multiplier (GIM) of 1.90 was derived from the market and when applied to the estimated gross income, resulted in a value of \$6,400,000. Mr. Kane testified that using the multiplier approach was more indicative of how non-profit facilities were valued and sold. The third model which is found in Respondent's Exhibit H considered the present worth of the membership income approach. This approach was given no weight in the conclusion of value due to a recent Court of Appeals decision regarding the value of membership fees for facilities of this type. Mr. Kane reconciled to value of \$6,200,000 via the income approach placing most weight on the GIM analysis and indicating that this approach was most appropriate for a facility of this type. No deduction for intangible personal property was considered in the conclusion of value.

The primary difference between Petitioner's and Respondent's concluded values involved which approaches (e.g. cost v. market v. income) were most appropriate and should be given the most weight, which income and expenses (e.g. profit v. non-profit entity) were most indicative of the operation of the subject, what market supported overall rate should be used in the analysis, and how the asset classes of tangible personal property and intangible assets should be addressed in the valuation.

After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes the following:

- The Board concurs with Petitioner that the use of an income approach best represents value for a property of this type.
- The income analysis developed by Petitioner using actual income and market expenses is given the primary weight in the final value. The Board concludes that the testimony and exhibits provided by Mr. McElhinney to be most credible, and best reflects and operation of the facility and the attitudes of the market.
- The most supportable overall rate for the subject should equate to 11.89% including an effective tax rate of 1.89%. This rate conclusion is based on a review of the published sources provided by both parties, and considers the trophy status of the subject. as well as the plight of the golf industry during the base period.
- Tangible personal property of \$295,190 should be deducted from the concluded value to arrive at the real property value based on data provided by Respondent. Petitioner's contention that a deduction for the contributory value of the equipment lease was not supported by the testimony or exhibits.
- No deduction for intangible personal property is warranted. Again, Petitioner's deduction for this asset class was not supported by credible testimony or exhibits.

Based on the above, the revised direct capitalization model is as follows:

Gross Income from All Sources	\$3,455,974
Total Expenses @ 79%	\$2,730,219
Reserves @ 6%	\$125,000
NOI	\$600,755
Overall Rate inc. ETR	11.89%
Indicated Value	\$5,052,607
Less Tangible Personal Property	\$295,190
Less Intangible Personal Property	\$0
Real Property Value	\$4,757,417
Round	\$4,755,000

The Board may not increase the level of value assigned by the County. The Board's recalculation reflected in the above grid supports the Board of Equalization's assigned value of \$4,715,940.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

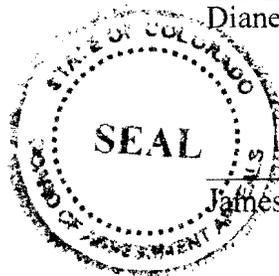
DATED and MAILED this 18th day of March, 2015.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

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



James R. Meurer

James R. Meurer

Milla Lishchuk

Milla Lishchuk