

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 76334
Petitioner: COLUMBINE COUNTRY CLUB, v. Respondent: ARAPAHOE COUNTY BOARD OF EQUALIZATION	
FINAL AGENCY ORDER	

THIS MATTER was heard by the Board of Assessment Appeals (“Board”) on June 25, 2020, Gregg Near and Diane M. DeVries presiding. Petitioner was represented by Alan Poe, Esq. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner protests the actual value of the subject property for tax year 2019.

EXHIBITS AND WITNESSES

The Board admitted Petitioner’s Exhibits 1, 2, 3, 4, and 8 and Respondent’s A, per the parties’ agreement. The Board admitted Exhibit B at the hearing. The Board also accepted the parties’ designation of Jonathan Fletcher and Brian Cassidy as testifying expert witnesses. The Board approved the parties’ Stipulations, filed June 24, 2020.

STIPULATIONS

1. The address of the subject property is 17 Fairway Lane, Columbine Valley, Arapahoe County, Colorado.
2. The subject property contains 40 acres of land plus improvements consisting of a 52,656-square-foot clubhouse building.
3. As of January 1, 2019, and June 30, 2018, the subject property was zoned CC (“Country Club”) under the Town of Columbine Valley Zoning Code and Land Use Regulations (Petitioner’s Exhibit 8).

4. The actual value of the subject property for tax year 2019 is best determined by the cost approach to appraisal.

MOTION TO ADMIT EXHIBITS INTO EVIDENCE

On June 29, 2020, following the hearing, Petitioner submitted its “Motion to Admit Exhibits into Evidence” (“Motion”). Respondent responded on July 1, 2020, objecting to the admission of the exhibits in its “Response to Petitioner’s (Post-Hearing) Motion to Admit Exhibits into Evidence.” Petitioner’s Motion requests admission of Petitioner’s rebuttal Exhibits 5, 7, 10, 13, 14, and 15, which Petitioner disclosed to the Board and to Respondent before the hearing in compliance with the Board’s Rule 11.

The Board admits Petitioner’s Exhibits 5, 7, 10, 13, 14, and 15 into the record, and gives them the weight it deems appropriate. To the extent the exhibits could be considered inadmissible under the civil rules of evidence, the Board finds that the evidence possesses probative value commonly accepted by a reasonable and prudent person in the conduct of their affairs. *See Indus. Claims Appeals Office v. Flower Stop Mktg. Corp.*, 782 P.2d 13, 15 (Colo. 1989).

DESCRIPTION OF THE SUBJECT PROPERTY

17 Fairway Lane
Columbine Valley
Arapahoe County, Colorado.
County Schedule No.: 2077-20-3-02-001

The subject property is a portion of a 27-hole Non-Equity Private Golf and country club. The subject property’s actual value, as assigned by the County Board of Equalization (“CBOE”) below and as requested by Petitioner, are:

CBOE’s Assigned Value:	\$8,151,931
Respondent’s Recommended Value:	\$8,151,931
Petitioner’s Requested Value:	\$6,940,254
Board’s Concluded Value:	\$6,940,254

BURDEN OF PROOF AND STANDARD OF REVIEW

In a proceeding before this Board, the taxpayer has the burden of proof to establish, by a preponderance of the evidence, that the assessor’s valuation is incorrect. *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). Proof by a preponderance of the evidence means that the evidence of a circumstance or occurrence preponderates over, or outweighs, the evidence to the contrary. *Mile High Cab, Inc. v. Colorado Public Utilities Comm’n*, 302 P.3d 241, 246 (Colo. 2013). The evaluation of the credibility of the witnesses and the weight, probative value, and sufficiency of all of the evidence are matters solely within the fact-finding province of this Board, whose decisions in such matters may not be displaced on appeal by a reviewing court. *Gyurman v. Weld Cty. Bd. of Equalization*, 851 P.2d 307, 310 (Colo. App. 1993). The determination of the degree of comparability of land sales and the weight to be given to the various

physical characteristics of the property are questions of fact for the Board to decide. *Golden Gate Dev. Co. v. Gilpin Cty. Bd. of Equalization*, 856 P.2d 72, 73 (Colo. App. 1993).

The Board reviews every case de novo. See *Bd. of Assessment Appeals v. Valley Country Club*, 792 P.2d 299, 301 (Colo. 1990). In general, the de novo proceeding before the Board “is commonly understood as a new trial of an entire controversy.” *Sampson*, 105 P.3d at 203. Thus, any evidence that was presented or could have been presented in the county board of equalization (CBOE) proceeding may be presented to this Board for a new and separate determination. *Id.* However, the Board may not impose a valuation on the property in excess of that set by the CBOE. § 39-8-108(5)(a), C.R.S.

APPLICABLE LAW

Both parties presented only the cost approach to value. The cost approach involves estimating land value, usually by the sales comparison approach, and a calculation of the replacement cost new less depreciation of the improvements. *Bd. of Assessment Appeals v. E.E. Sonnenberg & Sons, Inc.*, 797 P.2d 27 (Colo. 1990); *The Dictionary of Real Estate Appraisal*, Sixth Edition, Appraisal Institute, Chicago, Illinois, 2015.

EVIDENCE PRESENTED BEFORE THE BOARD

The subject of this hearing is identified by Arapahoe County by parcel number 2077-20-3-02-001. The parcel contains a 52,656 square foot clubhouse, a putting green; driving range and four of the 27-holes within the larger 40-acre ownership.

Petitioner’s witness, Jonathan Fletcher MAI, a Certified General Appraiser, testified the subject land was valued as one economic unit. Research of the local market yielded no large sales of residential or agricultural land within the local market area thus requiring an expanded search of the Denver Metro area. Accordingly, the appraiser researched and presented five comparable land sales from 27.27 to 43 acres with sale prices from \$430,000 to \$925,000 per acre. The transactions occurred from 2/3/2016 to 1/31/2018. Mr. Fletcher researched 71 large parcel sales in the Denver Metro area and determined an adjustment of 1% per year to be appropriate for market conditions (time). The witness applied qualitative adjustments for location, size, zoning and flood zone. After analysis for these factors, the land sales were individually adjusted from slightly inferior to superior to the subject. The sales were then ranked on a scale where the comparables were ranked as minimal; secondary and primary in similarity to the subject. Primary sales No 1, No. 4 and No. 5 reflected a price from \$18,706 to \$26,849 per acre. The remaining sales indicated a range from \$10,000 to \$16,832. Pointing to a mid-range value, Mr. Fletcher adopted a unit value of \$24,000 per acre to determine a land value opinion of \$960,000.

To determine the contributory value of the building improvements Mr. Fletcher presented a market-adjusted replacement cost of \$10,370,442 (\$196.95/SF) including direct and indirect costs. Physical depreciation, based upon the nearly new condition of the subject, was estimated at 2% of replacement cost. The appraiser then compared the replacement cost new opinion with a cost schedule prepared by the developer. The developer provided a cost of \$303.69/SF. The witness attributed this difference to premium finishes in the developer’s cost that would be unlikely

to be returned in the market and would not contribute equal value in relation to cost. The excess cost, defined as a super adequacy, is a form of functional obsolescence. To recognize this factor the appraiser applied an adjustment of 10% to the cost new. The witness also considered external obsolescence caused by a trend of aging demographics and closures of golf courses. Mr. Fletcher relied upon a national search of golf course sales occurring between July 2011 and June 2018 provided by CoStar. The search resulted in an average discount of 27%. Because the subject is a Private Non-Equity club, any potential sale would require approval by 80% of the members. Mr. Fletcher cited a range from 25% to 50% for similarly distressed Private Non-Equity clubs. Given the above, Mr. Fletcher applied a 40% estimate for the influence of external obsolescence. After adjustment for the above factors, the depreciated value opinion for the building improvements was calculated to be \$5,488,038. Site improvements were calculated to result in a depreciated cost of \$492,216 for a depreciated improvement value of \$5,980,254. Addition of the land value opinion of \$960,000 determined an as-is market value of \$6,940,000 (rounded).

Respondent's witness Brian A. Cassidy, a Certified General Appraiser for the Arapahoe County Assessor, testified there was a complication regarding the appropriate lot size to support the subject property. As a result, the witness adopted a *hypothetical condition* that a 5-acre site would be sufficient to support the improvements. The Uniform Standards of Professional Appraisal Practice (USPAP) defines a hypothetical condition as follows:

A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.

Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

USPAP, 2018-2019 ed.

Accordingly, the witness researched and presented five comparable land sales from 3.31 to 8.34 acres with sale prices from \$343,750 to \$604,230 per acre. Mr. Cassidy determined the prices for reported land sales had not changed significantly since purchase and no adjustment was applied for time (market conditions). Citing a lack of sufficiently similar sales, the witness applied qualitative adjustments for location; size; utilities and Intended Use/Zoning. After analysis for these factors, the land sales were individually adjusted from slightly upward to downward. Mr. Cassidy concluded to a mid-range unit value of \$400,000 per acre resulting in a site value of \$2,000,000 for the subject site.

To determine the contributory value of the improvements, Mr. Cassidy presented a market-adjusted replacement cost of \$11,366,814, including site improvements, soft costs and developer's profit. Physical depreciation, based upon the nearly new condition of the subject, was estimated at 2% of the replacement cost of the building and 4% for the shorter-lived site improvements. The appraiser also researched the golf industry and determined the industry had been declining over the past 10 years, thus indicating a loss in value due to external obsolescence. After conducting a

sale survey of four private golf clubs in Colorado, Mr. Cassidy determined the courses suffered from a loss in value due to changing market conditions from 20% to 48%. On this basis, the appraiser adopted an estimate of 50% for external obsolescence. Based on the above the witness subtracted \$5,778,743 from replacement cost new for all forms of depreciation to conclude a depreciated cost opinion of \$5,588,071. Mr. Cassidy added \$681,000 for additional costs and the \$2,000,000 land value to determine a value opinion by the cost approach of \$8,300,000 (rounded).

FINDINGS AND CONCLUSIONS

After careful consideration of the testimony and exhibits presented, the Board determines there are two significant areas of disagreement as summarized in the following table:

RESPONDENT		PETITIONER	
Land/Site Value	<i>\$2,000,000</i>	Land/Site Value	<i>\$960,000</i>
Improvement Value	<i>\$6,269,071</i>	Improvement Value	<i>\$5,980,254</i>
Appraised Value	<i>\$8,269,071</i>	Appraised Value	<i>\$6,940,254</i>

The Board finds the parties are in relative agreement on the improvement values. The difference between the two conclusions is \$288,817. Based on an average of the two improvement opinions the difference is less than .5%. The Board finds Petitioner’s unexplained addition of \$681,000 for “additional costs” not convincing and therefore places greatest weight upon Respondent’s estimate of improvement value.

The greater difference lies in the land/site values. The size of the land parcel varied between the parties. Petitioner’s witness valued the entire 40-acre site at \$24,000 per acre, arriving at a site value of \$960,000. In contrast, Respondent’s witness adopted a hypothetical 5.00-acre site and concluded to a value of \$478,806 per acre, or \$2,394,030 for the total site value. The Board finds that Respondent’s concluded land value was not supported by appropriately comparable land sales, nor did the application of Respondent’s hypothetical condition lead to a credible conclusion of value.

The Board first turns to Petitioner’s comparable land sales. (Exhibit 3, pgs. 48-58.) Petitioner’s witness presented five comparable sales containing 22.7 to 43.0 acres ranging in sale price from \$430,000 to \$925,000 (\$10,000 to \$27,386 per acre). All five sales were zoned A-1 (agricultural) with similar exposure, access, shape, and flood zone. After adjustments, the witness adopted a unit value of \$24,000 per acre, within the mid-range of the sales. The Board finds this land sales analysis compelling.

Respondent’s witness concluded that the highest and best use of the subject site, as if vacant, would be for either residential or commercial use. Respondent presented five comparable sales, with only one, Sale No. 5, representing a proposed use similar to the residential use already in place nearby, as four single-family homes. Sales No. 1 and No. 2, also intended for residential development, were both projected for higher density development. Sale No. 3, planned for commercial and senior housing, would not only represent higher density use but would also be intended for some sort of commercial development. Finally, Sale No. 4 is proposed for a wildly

different development of retail, parking and storage. Respondent's witness concluded to a land value opinion of \$2,000,000. Inexplicably, this value was applied to the entirety of the 40-acre subject property. The Board finds that the hypothetical condition that the remaining 35 acres have no market value does not lead to a credible conclusion of value.

The Board finds Petitioner's land value to be convincing.

Petitioner presented sufficient probative evidence to prove that the subject property was incorrectly valued for tax year 2019.

ORDER

The Petition is **GRANTED**. Respondent is ordered to reduce the 2019 actual value of the subject property to \$6,940,254.

The Arapahoe County Assessor is directed to change his/her records accordingly.

APPEAL RIGHTS

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 of the respondent county, 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).

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 within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

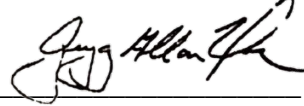
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

See § 39-8-108(2), C.R.S. (rights to appeal a tax protest petition); *see also* § 39-10-114.5(2), C.R.S. (rights to appeal on an abatement petition).

DATED and MAILED this 13th day of January, 2021.

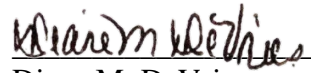
BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:



Gregg Near

Concurring Board Member:

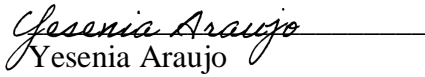


Diane M. DeVries

*Concurring without modification
pursuant to § 39-2-127(2), C.R.S.*



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



Yesenia Araujo