

<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>GRANDOTE PEAKS GOLF CLUB,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>HUERFANO COUNTY BOARD OF EQUALIZATION.</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 Sixteenth Street, Suite 225 Denver, Colorado 80211 Phone Number: (303) 433-1614 E-mail: olonalaw@aol.com Attorney Reg. No.: 17940</p>	<p><b>Docket Number: 38090</b></p>
<p style="text-align: center;"><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 13, 2002, Judee Nuechter and Karen E. Hart presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Garrett Sheldon, Esq. and George Rosenberg, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Huerfano County Schedule Number 19526, 2310613, 2310687, 2310688,  
2310689**

Petitioner is protesting the 2001 actual value of the subject property, an 18-hole, daily-fee designer golf course located near Walsenburg and the Cuchara Ski-Resort.

**ISSUES:**

**Petitioner:**

Petitioner contends that the subject property suffers from economic obsolescence due to its remote location and lack of “draw” attractions. The income approaches by both parties are identical with the exception that there is no business value deduction made by Respondent. Respondent relies on the cost approach, which is the highest value; they used cost totally and ignored the income approach. The cost approach does not include any depreciation; there should have been an obsolescence deduction.

**Respondent:**

Respondent contends that the subject property has been properly valued using the cost and income approach. The subject property is a three million dollar golf course. Economic obsolescence was considered in the land value. Petitioner’s report has errors.

**FINDINGS OF FACT:**

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

Cost:	\$1,063,960.00
Income:	\$1,100,000.00

2. Petitioner's witness did not present a market approach; no comparable sales occurred in the State of Colorado during the base year period.

3. The subject property is located 17 miles west of Walsenburg. It is very remotely located as compared to its competition. It is not a municipal course but is a daily fee course. There are 16 members that get discounts for play, as they have purchased lots in the adjacent subdivision. It is not a resort course; there are no associated facilities nearby.

4. Nearby Cuchara Ski Resort has been closed due to inconsistent snow conditions. The same developer created the subject golf course. The Respondent’s value is not a replacement value, it is easily a three million dollar course but it would not be built today; there is no economic support for the course. The subject property was purchased in 1995 for \$735,000.00 at a Resolution Trust Corporation (RTC) sheriff sale. Over the years, the number of rounds played and the income has remained steady, despite improvements and advertising; part of the problem is there is no nearby lodging. Most of the play is on the weekend. The property had never had sufficient water so additional water rights were purchased by the current owner. The irrigation system has been

repaired but it is 17 years old and outdated.

5. Huerfano County has a population under 8,000, approximately one quarter of the minimum necessary to support an 18-hole course. The Professional Golfer's Association material "Buying or Leasing a Golf Course", indicates a 50,000 population is needed for an 18-hole course.

6. Petitioner's witness presented an income approach to derive a value of \$1,100,000.00 for the subject property.

7. There is no economic viability for the subject as it is so remote and there are no nearby attractions to attract players. The public courses have much less expensive greens fees than the subject. Economic obsolescence should be applied. It is a Weiskopf-Morrish design, but it only attracts about 12,000 golfers a year and would likely be less if not for this designer. It is not economically viable. They utilized the actual income numbers to demonstrate the problem with the course. He has no argument with the land or the vertical improvement values. The clubhouse is a three-piece modular unit with no cooking facilities. The kitchen equipment consists of an electric hotdog cooker and a barbeque. There are no lockers.

8. Mr. McElhinney capitalized the actual losses to determine a loss analysis. He took the effective gross income and looked at an alternative investment return of 8%. He capped the annual loss at 14% to arrive at \$1.1 million. The course operates at a loss. During the extended base period, the revenues and rounds are consistent; the expenses are not consistent. The 16 memberships have no equity; only the investment group has equity. The property has a negative return.

9. The Respondent has applied no obsolescence. Respondent's income approach is identical to Mr. McElhinney's without the business value deduction. The designer fees are a part of the business component.

10. Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of \$1,063,960.00.

11. Mr. McElhinney testified that the cost approach could be an accurate valuation method but all forms of obsolescence and physical depreciation must be applied. A daily fee course is looked at according to the income and rounds played.

12. Under cross-examination, Mr. McElhinney testified that he is a certified general appraiser. His exhibit is an opinion of value, but not an appraisal. There is a contingent fee involved in this case. The subject property was built as an amenity to a planned development. The appraisal base year is January 1, 1999 to June 30, 2000; there were 4 lots sold during that period with lifetime memberships to this course, which is no longer possible. There are some hotels in Walsenburg and in Cuchara Ski Resort. The current operator has attempted to market "stay and play" packages. The management has subsidized lodging costs in the past, which they do no longer. He admitted that there is a more recent Marshall & Swift page than his page 9. The subject is a championship course, a Marshall & Swift Class IV. Regarding the clubhouse, there is a space with a stainless steel sink, a hotdog machine and parts of a dishwasher machine but no functioning kitchen; there is no plumbing or wiring in place. The kitchen could be made functional, but at a considerable cost. He used the Respondent's land value in his analysis.

13. Regarding his external obsolescence calculation, Mr. McElhinney testified that his procedure is applied in two steps. There is no market data to analyze for this case. His 8% came from discussions, but he has no data to support it. The income and rounds played are stable; only the expenses are not stable. Management can be a key in special purpose properties.

14. Petitioner's witness, Ms. Bree Jones, Assistant Manager for Grandote Peaks Golf Club, testified that she manages the pro-shop staff, daily bookkeeping, payroll, marketing, etc. The "stay and play" packages are where they give 10% off greens fees for a two-day stay; about half of the total play comes from these packages. They advertise throughout Colorado, attend the Denver Golf Show, and have a web site. They have strongly attempted to increase their sales.

15. Under cross-examination, Ms. Jones testified that she has been with the club since March 1999. She has done the bookkeeping since April of 2000. There are usually enough motel rooms for people, unless there is some special event. She has located a letter dated April 23, 2001 from the Assessor, which came with the notice of valuation; she believes she forwarded these on to Tax Profile Services.

16. Petitioner's witness, Mr. Wayne Smith, Golf Course Superintendent of Grandote Peaks Golf Club testified that he has worked at the subject property since 1986 and has been the superintendent since 1996. He is in charge of the outside operations, the golf course day to day maintenance and repairs of the facilities, equipment, how to increase play, etc.

17. Mr. Smith testified that he is familiar with the purchased water rights. It is on a rolling account and is stored in Walsenburg in the state's lakes. It is released when needed and is replaced each year if there is available runoff. The amount of water has dropped, as they have not been able to replace it. There have been times when there was not enough river water flow to allow them to use their water. If all the criteria are met to satisfy the state, there is sufficient water to allow them to operate the golf course. Usually there is not enough water in August and September. In 1999 and 2000, there was sufficient water stored in Walsenburg, but the river level fell in August and September so they could not receive water at their head gates. They had to shut down a lot of their irrigation, which stressed the grass due to a lack of moisture.

18. The Grandote irrigation system is a Toro unit installed in 1986. It was state of the art at that time, but there were two upgraded models by the time of installation. Parts are difficult to find and the unit is outdated; it is a manual operation.

19. There is no kitchen at Grandote. You can get a sandwich or hotdog, and there is an outside grill.

20. Under cross-examination, Mr. Smith testified that the rounds of play have been consistent from 1996 to 2000. As many rounds were played in 2000 when it was dry as were played in 1997 when it was wet.

21. Under re-direct, Mr. Smith testified that play during dry years caused an impaction problem and the grass wants to go dormant earlier, which increases wear.

22. Petitioner is requesting a 2001 actual value of \$1,100,000.00 for the subject property.

23. Respondent's witness, Mr. Patrick Luginbill, a licensed appraiser with the Huerfano County Assessor's Office, presented the following indicators of value:

Cost:	\$1,821,410.00
Income:	\$1,375,000.00

24. Mr. Luginbill testified that he considered the market approach but there were no comparable sales.

25. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,821,410.00.

26. Mr. Luginbill testified that he walked the golf course. It has all the amenities expected for a championship course. There is no disagreement over the land value. It is the same value that it has been since 1993; there have been no land sales similar to the subject.

27. Mr. Luginbill testified that he gave the most weight to the cost approach. He used the Marshall & Swift valuation cost sheet, which was current on June 30, 2000. He classified it as a Class III, although it meets all the criteria of a Class IV. His cost approach and Petitioner's cost approach are almost identical, except for the external obsolescence. He considers the external obsolescence to be calculated in the land value. He thinks the Petitioner doubled dipped on the external obsolescence calculation. Although it is proper to take an external obsolescence, it should be done through market analysis. Since there is not any market data, they attributed the obsolescence to the land value.

28. Mr. Luginbill testified that he did not include water rights in his value, although it is an amenity that could be included in the value. Petitioner paid \$450,000.00 for their water rights. Drought affects the water rights' value.

29. Respondent's witness used the income approach to derive a value of \$1,375,000.00 for the subject property.

30. Mr. Luginbill testified that he agreed with Petitioner's income approach except in the business component deduction. He does not think there have been any extreme managerial efforts to bring in income and there are fluctuating expenses. Therefore, he believes the income approach should not be given as much weight. He believes the property has been in bankruptcy three times. The property has had the same owner since 1995; there were three prior owners.

31. Mr. Luginbill testified that business value is intangible. Management could be extraordinary and bring in extra value due to their management skills or conversely, if management is not up to par it can show up in fluctuating income. He has on numerous occasions requested information, including mailing income questionnaires, writing letters, and making phone calls. He called Petitioner and not Tax Profile Services (TPS), as he was not sure TPS still represented Petitioner.

32. Under cross-examination, Mr. Luginbill testified that the overall market values have been increasing from the last reappraisal, though sales have slowed down. After the initial protest, they reviewed the property again and found some omitted property, calculated an increase in the cost per hole, and reanalyzed the depreciation for the irrigation system. The 80% value increase was justified. He took the Division of Property Taxation golf course valuation class on July 12, 2000. He has never appraised another golf course. He agrees there is no restaurant, only a snack area; it could be but is not used as a kitchen. Only 16 lots have been sold and there are only four homes. He thinks the golf course has been mismanaged and the lots have not been marketed.

33. Mr. Luginbill testified that the land value is the 1993 reappraisal value. They did not do a time trend but considered external obsolescence in the land value; the land value has been constant since 1993.

34. Mr. Luginbill testified that the income approach is the most appropriate method for this type of facility. Based on actuals, the income approach is \$1,375,000.00. The income produced by the value does not reflect numerous rounds played due to being a Weiskopf-Morrish course. He believes this is supported by the low rounds of golf played. He did not make a business deduction in either the cost or income approach.

35. Mr. Luginbill admitted that the actual income and expenses are consistent. He looked at the overall history of the subject. He relied primarily on Petitioner's page 21 showing profit and losses. They cannot substantiate an income value if there is a negative income. He has no objection to the income and expenses used by Petitioner; his only objection is the business value deduction. He admitted that he used the cost approach value exclusively; he did not give any weight to the income approach.

36. Regarding the bankruptcy, it is common knowledge. It does make him consider obsolescence; he considered it in the land value. He admitted that he has no support for the land value or the obsolescence.

37. Regarding the cost approach, he walked the course and decided to classify it as a Class III and chose the highest price per hole. He cannot attribute economic obsolescence to the improvement values or the golf improvements due to a lack of market data. He agreed it would have more rounds played if the subject were located in Denver.

38. Respondent assigned the following actual values to the subject properties for tax year 2001:

<u>Schedule Number</u>	<u>Actual Value</u>
2310613	\$1,298,837.00
19526	\$ 69,625.00
2310689	\$ 362,113.00
2310687	\$ 32,949.00
2310688	<u>\$ 103,656.00</u>
Total Value	\$1,867,180.00

**CONCLUSIONS:**

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

2. The Board was not convinced that the cost approach was the best approach to rely upon for the subject property value. Petitioner’s valuation witness, Mr. McElhinney testified that he relied upon Respondent’s land value in his cost approach. Respondent’s witness admitted that the assigned land value was set in 1993 and that values overall had increased in Huerfano County since that time. Respondent testified that the low land value accounted for any economic (external) obsolescence that exists at the subject property. The Board was not convinced that such a methodology would result in either an accurate land value or an accurate deduction for economic obsolescence. Therefore, the Board gave very little weight to this approach.

3. The Board was convinced that the income approach was an appropriate method to value the subject property, based on the stable history of income and rounds played. The Board believes that the subject property does suffer from a lack of play due at least in part to its remote location and lack of supporting facilities. Therefore the Board gave great weight to the actual income produced at the subject. The Board was also convinced that the proper expense deduction should be typical industry expenses, due to the subject’s lack of net income.

4. The Board notes that the parties agreed to all components of the income approach with the exception of a business value deduction. The Board determined that there was insufficient evidence presented as to whether there should be a business value deduction. We recognize that the subject course is what is known as a “signature” course, which in some cases can create a business value element. The Board was not convinced that such a business value exists with the subject property, due to its unstable managerial history. We recognize that the course is remote and suffers from obsolescence. However, the number of rounds played is lower than that experienced at other daily-fee courses in the competitive market and should reflect any obsolescence that exists. Whether the number of rounds played is directly related to the past managerial history of the subject, the higher greens fees, the lack of supporting facilities, or the signature name of the course was not separately convincing. The subject property is not what can be described as a “successful” golf course as it operates in the negative, and there are insufficient market sales to determine a market-derived adjustment due to a business value, if such a value exists for the subject property.

5. The Board determined that Respondent's income approach, without a business value deduction, was the most convincing and has relied upon it for the valuation of the subject property. After careful consideration of all the testimony and evidence presented, the Board concluded that the 2001 actual value of the subject property value should be reduced to \$1,375,000.00.

**ORDER:**

Respondent is ordered to reduce the 2001 actual value of the subject property to \$1,375,000.00.

The Huerfano County Assessor is directed to change her records accordingly.

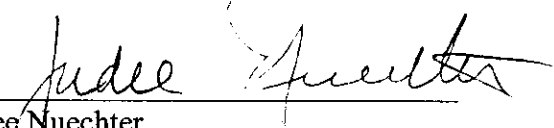
**APPEAL:**

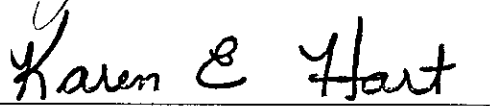
Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

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 14<sup>th</sup> day of March, 2003.

**BOARD OF ASSESSMENT APPEALS**

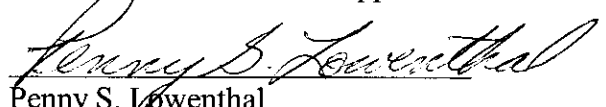
  
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Judge Nuechter

  
\_\_\_\_\_  
Karen E. Hart

This decision was put on the record

MAR 13 2003

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

  
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Penny S. Lowenthal

