

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GREEN GABLES COUNTRY CLUB,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Richard G. Olona, Esq. Olona & 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>Docket Number: 42802</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 19, 2004, Diane M. DeVries and Karen E. Hart presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Lily Oeffler, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**6800 West Jewell Avenue, Lakewood, Colorado
(Jefferson County Schedule Nos. 015488 and 092645)**

Petitioner is protesting the 2003 actual value of the subject property, an 18-hole private golf course with clubhouse, swimming pool, tennis courts and ancillary buildings, situated on 152.289 acres in Jefferson County, Colorado.

ISSUES:

Petitioner:

Petitioner contends that the subject property is overvalued. The land value is excessive, the golf improvements are valued as though USGA modified greens when in fact they are native soils push-up greens, and the clubhouse is overvalued.

Respondent:

Respondent contends that the subject property has been properly valued. The land is not deed restricted and water is not an issue as there are water rights. Petitioner has not provided any land sales to support their requested value.

FINDINGS OF FACT:

1. The subject property is an 18-hole golf course located in Jefferson County. It is a private course known as Green Gables Country Club. The course itself is of native soils, push-up greens construction. There are adequate water rights associated with the property. The golf course is one of the oldest courses in Jefferson County. The original nine holes were built in 1928 and the second nine holes were built in 1958. It is agriculturally zoned land. The subject property is divided into two parcel numbers, due to its location in varying taxing areas and totals 152.289 acres.

2. There are six buildings including a 46,992 square foot clubhouse, a 9,760 square foot maintenance building, a 693 square foot snack bar building, a 2,182 square foot tennis shop with apartment, a 3,160 square foot storage building, and a 2,564 square foot groundskeeper's residence. The buildings were built between 1925 and 1984. There was a fire in the clubhouse in 1983/1984 and it was subsequently rebuilt.

3. Respondent assigned a value of \$2,262,420.00 to the subject property building improvements. Respondent's land value is \$10,000.00 per acre, for a total land value of \$1,522,890.00. Respondent's replacement cost new for the golf course improvements is \$125,000.00 per hole, with a depreciated value of \$100,000.00 per hole, for a total value of \$1,800,000.00. The total assigned value for the subject property for tax year 2003 is \$5,585,310.00.

4. Petitioner is requesting a 2003 actual value of \$4,000,000.00 for the subject property.

5. Petitioner's witness, Mr. John Madden, Jr., Grounds Superintendent for the Green Gables Country Club, testified that the course itself is in poor condition and is in the process of being rebuilt. In 1999, the practice greens were replaced. Some drainage work was done on Hole

17, Tee 11, and Tee 6. Some cart path work and some remodeling work was done in 2000. The course was in disrepair and obsolete on January 1, 2003. The pool and tennis courts are in good condition, but the tennis courts need resurfacing.

6. Petitioner's witness, Mr. John Carr, the Controller for Green Gables Country Club, testified that in 2000, the membership decided that the golf course condition was getting critical. There were constant complaints about the condition of the course and memberships were lost. In 2001, they decided to proceed with the reconstruction project and the vote was set for May 2002, at which time 80% of the members voted to proceed. They proceeded immediately thereafter to begin with the reconstruction plan but water restrictions became an issue; their lake was 10 feet below normal level and the water pumps were nearly exposed. They postponed the start of construction until after Labor Day, 2003. They are basically completely rebuilding the course. The construction contract is approximately \$3.2 million, including demolition costs and an irrigation system. The cart paths are currently being maintained, though some will need to be replaced. The renovation is financed through membership assessments and a mortgage on the property.

7. Petitioner's witness, Mr. Tom McElhinney, a Certified General Appraiser with Tax Profile Services, Inc., presented the following indicators of value:

Market:	\$3,880,000.00
Cost:	\$3,640,000.00
Income:	\$4,080,000.00

8. Based on the market approach, Petitioner's witness presented an indicated value of \$3,880,000.00 for the subject property.

9. 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 acres to 193.68 acres.

10. Sale 1 is King's Deer Golf Club located in Monument, is restricted to greenbelt use, and sold for half of what it cost to build the facility. It was built in 1998-1999 and is a modified sands course with a 4,635 square foot clubhouse and a 3,500 square foot maintenance building. It is a public course. Respondent's witness, Mr. William Stuhlman, a Certified General Appraiser with the Jefferson County Assessor's Office, testified that this sale was a distress sale according to the broker.

11. Sale 2 is the Eagle Trace Golf Course, which is greenbelt or open space for a residential development. It was constructed in 1963 with native soils push-up greens. There is a 6,600 square foot clubhouse and a 3,200 square foot maintenance building. Mr. Stuhlman testified that there was a credit included in the sale to remodel the clubhouse.

12. These properties were private clubs at the time of sale and both were daily fee courses. Neither property has a pool. There are location differences as compared to the subject and they require a substantial adjustment when compared to the subject property's improvements. Mr. McElhinney did not adjust the sales except on his reconciliation page, where he made an adjustment for the clubhouse and amenities. He made no adjustment for the open space/greenbelt restrictions

and also did not adjust for the fact that they lacked a swimming pool. Mr. McElhinney concluded that the indicated value of the subject property was between \$150,000.00 and \$175,000.00 per hole based on the market approach.

13. Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of \$3,640,000.00.

14. Mr. McElhinney testified that there are no sales of land used for golf courses that sold during the base period. The sales that exist are sales of open space or otherwise restricted land. He believes Respondent's land value at \$10,000.00 per acre is not supportable as it is derived from sales of land that could have been developed, which is not the kind of land used for a golf course. All of the front-range courses are now built on land donated by developers or are highly subsidized land used for greenbelt. Most are now municipally operated and do not cash flow; they are taxpayer subsidized.

15. In cross-examination, Mr. McElhinney testified that most golf courses have land use restrictions placed on them, sometimes by deed. He believes that only heavily restricted land use sales should be used to value golf courses. He admitted that the subject property is not part of an open space requirement; the only restrictions are those uses allowed by the agricultural zoning, however, the existing memberships would need to be bought out in order to redevelop the property. He valued the land at \$5,000.00 per acre, but did not submit sales to support his land value.

16. The course was playable on January 1, 2003, but the membership had dropped. Regarding the golf course classification, Respondent has classified it as a high end Class III. Mr. McElhinney does not believe a course built in 1925 should be at the top of the valuation class when the membership believes the course should be dug up. USGA greens cost far more to build but are less costly to maintain, they last longer under traffic, and they produce a better quality course.

17. The clubhouse size creates issues; it is twice the size of any other clubhouse in Jefferson County. Mr. McElhinney used the Jefferson County Assessor's cost for the buildings. There are no intangibles in Petitioner's report; he deducted the business value and personal property to get to the real estate value. He did not provide actual golf course construction cost data.

18. Petitioner's witness presented an income approach to derive a value of \$4,080,000.00 for the subject property.

19. Mr. McElhinney believes the only way to determine depreciation is to look at the income approach. The golf industry is being driven by public golf courses, which are not compelled to operate for a profit and are tax exempt. The Denver area has three times the concentration of subsidized public golf as compared to nationwide statistics. The number of rounds of golf played at courses is going down, which affects the fair market value of golf courses. All of the private courses are losing members.

20. Respondent's witness, Mr. William Stuhlman, a Certified General Appraiser with the Jefferson County Assessor's Office, presented the following indicators of value:

Market: \$5,850,000.00
Cost: \$5,585,310.00

21. Mr. Stuhlman testified that all of the golf courses in Jefferson County are valued according to the cost approach. Sales are limited and the income approach is not applicable as the subject property is a private course.

22. Based on the market approach, Respondent's witness presented an indicated value of \$5,850,000.00 for the subject property.

23. Respondent's witness presented the same two sales as Petitioner and one additional comparable sale, Deer Creek in Littleton. This sale occurred in February 2000 for \$5,100,000.00, or \$283,333.00 per hole. The course is situated on 151.122 acres. It is a new golf course with a 5,621 square foot clubhouse and is a daily fee course. Mr. Stuhlman testified that this is the only golf course sale that has occurred in Jefferson County in the last 10 years. Mr. Stuhlman made adjustments to the sales for location, type of buildings, and age. The adjusted sales price range was \$223,580.00 to \$340,000.00 per hole, with an average price of \$264,300.00 per hole.

24. Mr. Stuhlman admitted that he did not make an adjustment to the sales for the type of golf course hole construction. He made a 30% adjustment to the sales for the lesser structures on the sale properties; the sale clubhouses are smaller than the subject. Sale 3 included a long-term lease to American Golf. He believes Sale 3 is most similar to the subject and testified that it required the least amount of adjustment. He admitted that Sales 1 and 2 did not support his concluded value.

25. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$5,585,310.00.

26. Mr. Stuhlman testified that he looked at the lowest land sales he could find to establish the land value of \$10,000.00 per acre. He reviewed five sales; one was a golf course sale and the remaining sales were open space properties. He looked for sales that were similar in size as the subject. Sale 1 was acquired by the City of Lakewood for a new golf course – “The Homestead at Fox Hollow.” Sale 1 is the closest to the subject in distance. The remaining sales are on the outskirts of town. He believes that the subject property has development potential. Mr. Stuhlman testified that Sale 1 was only 49.139 acres in size and was necessary for adding to existing land to finish the golf course. He made no adjustments to the sales; there would probably be a downward adjustment to Sale 1.

27. Mr. Stuhlman determined a per hole cost of \$125,000.00, using the Marshall & Swift cost service and also reviewing actual construction costs from other courses. Page 17N of Respondent's Exhibit 1 is a list of golf course construction costs at other golf courses; these sales had a \$205,527.00 average cost per hole but all are of USGA modified sands construction. His replacement cost new (RCN) is based on USGA greens construction costs. In cross-examination, Mr. Stuhlman read the following from the Marshall & Swift valuation manual regarding the per hole costs, Respondent's Exhibit 1, page 17M: “Older courses may be at the lower end of the cost range where design layout and improvements had not been affected by restrictive land use and/or environmental controls.”

28. Respondent's witness considered but did not present an income approach to value for the subject property. He gave the most weight to the cost approach due to the special purpose nature of the subject property.

29. Respondent assigned an actual value of \$5,585,310.00 to the subject property for tax year 2003, with \$5,335,560.00 assigned to Schedule 015488 including all improvements, and \$249,750.00 assigned to Schedule 092645 for land only.

CONCLUSIONS:

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

2. The Board is not convinced that the income approach is useful in valuing the subject property. The subject golf course is old and was in poor condition on the assessment date, has a much larger than typical clubhouse, and is a private course. The income stream is intertwined with business value due to the prestige of a private course, and the subject's income stream has surely been affected by the course's poor condition. For these reasons, the Board gave little consideration to the income approach.

3. Regarding the market approach, Petitioner's witness did not make adjustments to his two sales for physical characteristics, and the adjustments that were made in his reconciliation were not supported. The sales were not private golf clubs and both were built to sell surrounding residential developments. Respondent's witness testified that Sale 1 was made under duress. Sale 1 is a modified sands course, not a native greens push-up, and is much newer than the subject. Sale 2 is a native greens push-up and is an older course, similar to the subject; however, the clubhouse is much smaller, there is no pool, there is no caretaker residence and the Board could not determine whether there were tennis courts at this property. Both courses are in inferior locations and inferior in building improvements. Respondent's Sale 3 is a new, daily fee course with USGA greens construction and included a long-term lease to American Golf. The clubhouse was not completed at the time of sale and the sale did not include the entire course; additional land was acquired for the maintenance building location and driving range. Due to all of the issues regarding these sales, the Board considered but gave lesser weight to the market approach.

4. The Board gave most weight to the cost approach. Regarding the land value of the subject property, Petitioner did not present any land sales, choosing to critique Respondent's land sales. While Petitioner testified that the sales should have adjustments, no analysis with adjustments

was performed and insufficient evidence was presented for the Board to determine what adjustments should be made. Respondent presented five vacant land sales, which bracket the assigned value, and the Board affirms Respondent's land value of \$10,000.00 per acre.

5. Regarding the golf course improvements, the Board was convinced that, due to the age, condition, and construction quality of the subject course, the cost per hole should be taken from the lower end of the Marshall & Swift value range. The Board determined that the RCN of the golf improvements should be \$91,000.00 per hole. Using Respondent's depreciation factor of 20%, the Board concluded that the RCNLD of the golf course improvements should be \$72,800.00 per hole, or \$1,310,400.00.

6. Petitioner's witness testified that he accepted Respondent's improvement value for the buildings, although the Board notes that Petitioner's documentation lists a different improvement value than that actually assigned by Respondent. The Board affirms Respondent's building improvement value of \$2,262,420.00. The final value for the subject property via the cost approach was determined to be \$5,095,710.00, or \$283,095.00 per hole.

7. The Board concluded that the 2003 actual value of the subject property should be reduced as follows:

<u>Schedule 015488</u>	
Land Value	\$1,273,140.00
Golf Course improvement value	1,310,400.00
Other improvements	<u>2,262,420.00</u>
Total Value	\$4,845,960.00
 <u>Schedule 092645</u>	
Land Value	\$ 249,750.00

ORDER:

Respondent is ordered to reduce the 2003 actual value of the subject property as allocated in Conclusion 7 above.

The Jefferson County Assessor is directed to change his 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 18th day of May, 2004.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries
Diane M. DeVries

Karen E. Hart
Karen E. Hart

This decision was put on the record

MAY 18 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

