

<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>Docket No.: 53070</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 16, 2010, Diane M. DeVries and Louesa Maricle presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

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

The subject property is an 18-hole, member owned golf course situated on 152.29 acres in an unincorporated area of Jefferson County. It is a private course known as Green Gables Country Club that was developed in the 1920s. Respondent has the site divided into two schedule numbers because the property falls within two tax districts. The property is zoned A-2. The golf course improvements include tee boxes, grass fairways, adjacent rough areas, trees, greens, sand bunkers, water hazards, computerized underground irrigation system, concrete cart paths, a driving range, and practice putting green. There are eight primary buildings including the 38,589 square foot clubhouse, a 9,760 square foot golf course maintenance building, a 1,920 square foot restaurant and bar building located between holes No. 9 and No. 10, a 2,006 square foot tennis shop and fitness center, a 3,160 square foot building used for the summer day camp, a 1,725 square foot caretaker's

residence, and two 380 square foot golf course restroom buildings. The tennis and fitness center, summer day camp building, and caretaker's residence were built in approximately 1925. The original clubhouse was rebuilt and the Jefferson County records show a year of construction of 1953. The clubhouse has had multiple additions. The maintenance building was constructed in 1973 and the original portion of the half-way restaurant and bar was built in 1984. An addition to that structure and the golf course restroom buildings were constructed in 2004. Other club amenities include a swimming pool and six tennis courts. The property also has small supporting structures classified as sheds by Respondent and not separately valued. The site has mature trees and landscaping around the primary buildings. Other site improvements include paved parking, perimeter fencing, and gated entry. The golf course was renovated during 2003 to 2005 at a reported cost of approximately \$4,500,000.00 according to club management. The property has permits to purchase water from the Agricultural Ditch and Reservoir Company and the Merritt Ditch Company for use on the golf course. According to Petitioner, there are no excess water rights.

Respondent assigned a value of \$4,746,900.00 for tax year 2009. Petitioner is requesting a value of \$4,000,000.00.

Petitioner:

The primary issues in Petitioner's appeal to the Board are: (1) Respondent relied on the cost approach, but did not adequately adjust for economic obsolescence and Respondent's land value is overstated because it assumes the highest and best use of the subject is for redevelopment, (2) Respondent ignored golf course sales during the base period, and (3) Respondent's income approach capitalized annual membership dues without adequately reflecting expenses or deductions for personal property and intangible assets.

Mr. Christophe Granger, General Manager for Green Gables Country Club and Mr. Thomas F. McElhinney, a Certified General Appraiser employed by Tax Profile Services, Inc., appeared as witnesses for Petitioner. The witnesses both testified about an oversupply of golf facilities, and declining golf club memberships and rounds played nationwide and at the subject in particular. Mr. Granger testified this has resulted in the inability of the club to charge the normal initiation fees for new members. Operation of the club relies primarily on annual membership dues and special assessments. The recent golf course redesign and renovation did not increase membership.

Mr. McElhinney presented an appraisal of the subject property including the cost, market, and income approaches to value. Petitioner presented a cost approach analysis using a combination of cost estimate data from the Golf Course Builders Association of America and the Marshall and Swift third party services, and replacement cost figures for vertical improvements obtained from the Jefferson County Assessor. The witness deducted a total of 73.5% of the total value of the improvements for physical depreciation, and for functional and economic obsolescence. Comparable land sales were not provided. The witness testified that he did not find any sales of land specifically designated for golf course or open space use in the subject's area within the extended base period. According to the witness, the land value estimate per acre used was based on a previous sale that occurred outside the base period and that the \$5,000.00 per acre conclusion is a reasonable value for passive open space such as the subject property. Mr. McElhinney's conclusion of the going concern value for the subject by the cost approach was \$2,558,410.00. However, the

witness concluded that the cost approach is highly subjective and unreliable in valuing the subject property and did not place any reliance on it for the final conclusion of value.

The Board finds that Petitioner has failed to support the conclusion of land value with market evidence. Based on testimony from both parties, the Board concludes that Petitioner's cost estimate for the vertical improvements includes depreciation taken on an already depreciated cost figure. The Board concurs that Petitioner's cost approach analysis did not produce a reliable indication of value for the subject property.

For the market approach, Mr. McElhinney presented a table of 14 sales that occurred during July 2003 through June 2008. The sales included primarily golf courses that were developed as an amenity and selling tool for new single family housing subdivisions, but also included at least one free-standing course, such as the subject. The witness testified that a weakness of the market approach is the difficulty in obtaining reliable information about the contributory value of personal property and intangible assets included in the sale prices. Without adjustments for any differences in characteristics, the sales indicated a range of values of \$90,278.00 to \$638,889.00 per hole. The witness narrowed the range to \$90,278.00 to \$312,500.00 per hole by excluding sales he deemed non-qualifying. Based on these sales, the witness concluded to a range of going concern values for the subject of \$200,000.00 to \$300,000.00 per hole, resulting in a total range of the going concern value of \$3,600,000.00 to \$5,400,000.00, including personal property and any tangible and intangible assets that may have been included. To exclude these non-realty items from value, the witness deducted \$1,000,000.00 for personal property, rounded up from the declared value of the subject's personal property of \$867,736.00. That reduced the range of going concern value to \$2,600,000.00 to \$4,400,000.00. The witness testified that the estimated value of intangible assets (\$4,278,952.00) would then be deducted to produce the value of the real property. The witness did not conclude to an adjusted value of the real estate using the market approach.

Intangible assets identified in the analysis included membership contracts, an estimate based on historical performance for tournaments to be booked in advance, lease agreements for golf course equipment, internet domain name, licenses, supplier relationships, utility connection and tap fees, the specially trained workforce, the reputation of the club, and the value of the name recognition of the professional golfer who contributed to the redesign of the course.

The Board notes that Mr. McElhinney did not attempt to adjust the comparable golf course sales for differences in physical or income characteristics relative to the subject. Because inadequate information was available concerning non-realty assets included in the comparable sales, Petitioner's witness was unable to provide adjusted sale prices pertaining to the real property only. The Board agrees that the value of personal property must be excluded and that some value associated with intangible assets might also apply, but a deduction of \$1,000,000.00 alone for club reputation and name recognition of the golfer who contributed to the redesign contradicts testimony provided by both witnesses that the course redesign and renovations made have not improved membership. Further, Petitioner's appraisal stated that although several golf course sales had prominent name designers and significantly larger or more functional clubhouses, these did not seem to have a great influence on selling prices. Insufficient support was provided to support the magnitude of the witness's adjustments for intangible assets for the subject and that investors are willing to pay for

these assets. For these reasons, the Board concludes that Petitioner's market approach does not produce a reliable indication of value for the property.

Mr. McElhinney testified that the income approach is the most valid to estimate the value of the subject property. Because the subject is a member owned club, operating profit is not a primary focus. The goal of private clubs is to provide the highest level of services supportable. Therefore, Mr. McElhinney performed a pro forma analysis for the property as if it were a daily fee course open to the public. The witness relied on survey data from daily fee golf courses in the region and, to a lesser extent, on the operating history for the subject to estimate an annual net operating income of \$546,639.00. The witness used direct capitalization to convert the estimate of income into an indication of value. The witness relied on overall capitalization rates reported by two third party real estate investor surveys. He also provided a band-of-investment analysis and general capitalization rates for golf course sales in Colorado since 2000. The real estate investor surveys reflect investment rate expectations/desires reported by real estate investors, lenders, brokers, and consultants. The rates presented for Colorado sales include some sales that occurred prior to the extended base period. Actual operating income data was not available for most of the sales that occurred during the extended base period, so the capitalization rates shown for those sales are estimates, not based on consistent analysis of the income and expenses for each property. Mr. McElhinney concluded to a capitalized value by the income approach of \$4,555,325.00. Intangible assets were also a significant item in Mr. McElhinney income approach. According to the witness, the capitalized value represents the going concern value and to derive the value of the real estate alone, he deducted \$649,587.00 for intangible personal property. This produced a value of the real estate of \$3,905,738.00. The income approach value shown in the appraisal's reconciliation was \$3,953,900.00, different than the value shown in the detailed analysis.

In summary, Petitioner presented the following indicators of value. The market approach values shown do not include a deduction for intangible assets.

Cost:	Not applicable
Market:	\$2,600,000.00 to \$4,400,000.00 (going concern)
Income:	\$3,953,900.00

Petitioner relied primarily on the income approach, with secondary weight given to the market approach. Petitioner is requesting a 2009 actual value of \$4,000,000.00 for the subject property.

The Board agrees that the income approach could be valid methodology, but because the subject is a private club, it requires operating assumptions that do not currently exist. Also, the capitalization rate relies primarily on desired investment rates reported by market participants rather than rates derived from actual operating income for market sales. Because market sales derived data is difficult to obtain, Petitioner's methodology is valid, but it has inherent limitations because it relies heavily on third party surveys. The Board agrees that it is appropriate to deduct the value of personal property and non-tangible assets from the going concern value, but concludes that the magnitude of the value estimate of the intangible assets for the subject is not supported by market evidence showing that investors pay for all of the intangible items discussed, so the adjustments may be overstated. Recognition of intangible assets by the Internal Revenue Service for income tax

reporting purposes does not mean that market investors will actually pay for all of those intangibles when negotiating a market rate purchase price.

Respondent:

The primary issues offered in Respondent's case are: (1) In considering the valuation of the land, the highest and best use of the property is for redevelopment, not the current golf course use. Petitioner excluded the value of the subject property's water rights and did not provide land sales that occurred during the statutory base period or extended base period to support a lower value; (2) It is contradictory for Petitioner to make a large deduction from value for economic obsolescence and also make large deductions for the value of good will and intangible assets to derive a value of the real estate, if economic obsolescence is such a big factor, any intangible assets the property may be diminished.

Mr. Randall K. Brenimer and Mr. David D. Niles, Certified General Appraisers with the Jefferson County Assessor's office, testified as witnesses for Respondent. The witnesses completed an appraisal using the cost, market, and income approaches to value.

Mr. Niles presented an analysis of four large acreage sales of development land that occurred during the base period and extended base period. After adjustments for differences in zoning and platting, the witness concluded to a value for the subject using this analysis of \$115,000.00 per acre. Mr. Niles testified that the subject property has valuable water rights and according to Section 39-5-105, C.R.S., water rights are to be valued with the land. Mr. Niles estimated the value of the water rights to be \$2,970,000.00, based on conversations with water and ditch companies. Respondent did not support this estimate with sales of water rights or expert testimony. The witness concluded to a total value for the subject as a redevelopment site of \$20,483,350.00, but testified that the appraisers did not rely on this in the final conclusion of value.

Mr. Niles presented five open space land sales and two golf course land sales located within the metropolitan area. The sales indicated a wide range of values of \$11,428.00 to \$52,546.00 per acre. Without adjusting the sales for differences in size, location, or other conditions or characteristics, the witness concluded to a value for the subject land of \$15,000.00 per acre, at the top of the range of the open space land sales that had A-2 zoning. The \$15,000.00 per acre value was applied to all but one acre of the subject site, which the witness allocated to the caretaker's residence and valued at \$78,100.00 per acre based on his opinion of the value of nearby home site sales. Individual home site lot sales were not provided as support. The total estimated value of the land by this method was \$2,347,300.00 including \$78,100.00 allotted to the caretaker's residence, \$1,894,600.00 for the primary site, and \$374,600.00 for the smaller secondary site.

Mr. Brenimer testified that a state-approved cost estimating service was used to derive a market-adjusted cost value for the subject improvements of \$4,586,200.00. This figure reflects deductions for personal property reported to the Assessor, physical depreciation, and external (economic) obsolescence. Intangible assets were excluded from this analysis. The indicated value of the land and improvements by the cost approach was \$6,933,500.00. The cost approach value differs significantly from the assigned value because of updated information about building areas

and condition of the improvements after the appraisers toured the property in preparation for this appeal.

Mr. Brenimer presented a market approach with an indicated value range of \$4,200,000.00 to \$4,700,000.00. Three golf course sales were presented. The witness testified that one sale was sold out of foreclosure, so it was adjusted upward 40%. No other adjustments to the sales were made.

Respondent did not adjust the comparable sales presented for differences in location or other physical characteristics. Because of the difficulty in obtaining reliable information about non-realty items that may have been included in the sale prices, Respondent was unable to make the necessary adjustments for them. For these reasons, the Board concludes that the market approach does not provide a reliable indication of value for the property.

Mr. Brenimer presented an income approach with an indication of value for the subject property of \$6,000,000.00. Because the subject is a member owned club, the witness did not rely on the actual operating history for the property. The analysis used revenue from mandatory annual golf membership dues only and a 75% expense ratio estimate to derive a pro forma net operating income. The net operating income was capitalized at a rate of 11.5%.

Respondent presented the indicators of value shown below. Respondent gave the least weight to the market approach and concluded that the pro forma income approach only provided support for the cost approach. The final value is based on the cost approach.

Schedule No. 015488

Cost:	\$6,800,000.00 to \$7,600,000.00
Market:	\$4,200,000.00 to \$4,700,000.00
Income:	\$6,000,000.00

Schedule No. 092645 (Vacant Parcel)

Market:	\$374,600.00
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Final Value Conclusion: \$6,800,000.00 to \$7,600,000.00

Respondent assigned a value of \$4,746,900.00 to the subject property for tax year 2009.

Because there are too many variables associated with the sales information provided by Respondent that have not been quantified, the Board concludes that the market approach does not provide a reliable indication of value for the subject property. The Board also concludes that the cursory income approach analysis provided does not result in a market based conclusion of value. Regarding the cost approach, the Board notes that Mr. Niles did not make adjustments to the land sales provided for differences in location, size, site improvements, or water rights included, if any, relative to the subject property. Mr. Niles did not make a lump sum adjustment to his conclusion of land value for the \$2,970,000.00 he estimated as the value of the subject property's water rights, and it is not evident how he did factor the value of the water into his conclusion of land value.

Summary:

Petitioner contends that Respondent has incorrectly valued the subject land based on a highest and best use as a redevelopment site. The Board agrees that redevelopment of the subject property does not appear to be a reasonable future use. Therefore, the property should be valued based on the current use as a golf course rather than a speculative future use. However, Petitioner's cost approach did not include comparable land sales to dispute Respondent's conclusion of land value. Respondent has relied on the cost approach and a land value based on open space sales with A-2 zoning. Petitioner's market approach had too many unknown variables to produce a reliable indication of value. Petitioner has relied primarily on a pro forma income approach that relied heavily on third party surveys. The Board agrees there is no one approach to value that clearly provides a better indication of value for a special use property such as the subject. The income and cost approaches relied on by the respective parties are both valid, but both have inherent limitations. However, the Board concludes that Petitioner has not met the burden to prove the value assigned to the subject property was incorrect.

The Board concludes that Petitioner failed to present sufficient probative evidence and testimony to prove that Respondent's valuation assigned to the subject property for tax year 2009 was incorrect.

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-five 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-five days after the date of the service of the final order entered).

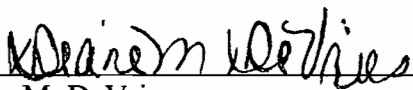
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 26th day of May 2010.

BOARD OF ASSESSMENT APPEALS




Diane M. DeVries



Louesa Maricle

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



Heather Flannery

