



PROPERTY TAXES IS RELIEF IN SIGHT?

A Report from the National Golf Course Owners Association



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EXECUTIVE SUMMARY

The decade of the 2000s may be remembered in the golf industry as the most active period ever for beneficial property-tax legislation. In Maryland, South Carolina, Nevada and Virginia, tax-relief laws for golf property have been recently enacted. Just prior to the beginning of the decade, Arizona course owners successfully lobbied for relief from over-taxation. In several other states, draft legislation and organized efforts to advance the cause of course owners are in full force. Of course, the success owners and operators are having in finding tax relief is being played out against the backdrop of frustration and confusion many feel pervades the property valuation process. It's also arguably the justifiable reward for those who have borne onerous tax bills that threaten their business and livelihoods. In other words, there would not be success if there were not also inequities creating the need for proactive measures.

Golf courses represent a unique combination of real property, personal property and business enterprise. As a result, they are unwieldy and often unfamiliar entities for tax assessors. The uniformity that makes appraisal and assessment possible and fairly straightforward in residential real estate is absent once you step onto any golf course.

In the current overbuilt condition of the public golf market, price increases are not an automatic or prudent recourse when a property tax bump arrives in the mail. Nor is a cutback in maintenance or other operating budgets a prudent action with the competitive nature of the business today. So more and more owners are deciding to disprove the notion that you can't fight city hall. Property tax assessment and collection, while not conceived as an advocacy system, seems to have evolved into one.

This report from the National Golf Course Owners Association examines the current state of the property tax issue from the perspective of owners and operators.

INTRODUCTION

For the owners of golf courses, property taxation is always a timely topic, if for no other reason than the size of the bills course owners pay. Property tax ranks as one of the largest line items for any course, right alongside labor and maintenance.

In this era of extreme oversupply of golf holes, the ongoing struggle to increase participation and the dominance of American course-building by home builders, the property tax question is particularly sensitive and in need of attention. Golf course owners are squeezed by the competition new courses have introduced and by the confusion over real estate values that planned-community courses unleash in the tax-assessment community.

“Golf courses cost so much to build,” observes Jack Taylor, an appraiser in Houston, Texas, “and they keep being built—by developers who operate them at a loss, not by experienced golf operators. The result is a high replacement-cost value for any course. Most appraisal

for being on a golf course, and the golf course is also assessed based on its cost even though those costs were incurred in order to enhance the value of the homes.

Looks are deceiving, however, and to convince assessing bodies or opinion leaders that these courses represent a net diminution in real value is not an easy argument to make.

Public-fee golf is also under pressure from communities that value these courses as open space in a time of growing fears over suburban sprawl and congestion. In communities that have granted favorable tax treatment to public courses in respect of that open-space benefit, the two parties are all square. But in places where that consideration has not been granted, and the towns and municipalities have not otherwise set aside sufficient park and recreation property, it could be argued that the golf course owner takes on a public responsibility without due compensation.

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districts will try to assess on replacement cost, and that’s way out of whack with income, at least in this oversupplied market.”

“Value transfer” is the term that explains why lavish new golf courses that have sprung up in every region of the country are not, in and of themselves, valuable land investments. They are a means to an end, and they sacrifice their inherent value to enhance that of adjacent residential property. Meanwhile they siphon away golfers from daily-fee patronage and depress the rounds-played statistics in the sector that needs it to maintain, not to mention build, asset value. Some would say this amounts to double taxation: the homes surrounding the course are valued at a premium

county itself is that golf courses are cash cows and generate all this income. In fact, many courses are not generating income and are anything but cash cows,” says Cary Corbitt of the Sea Pines Company on Hilton Head Island, S.C. “We want to pay our fair share, but when we get singled out and receive these exorbitant tax increases, it’s not fair.”

Corbitt and his colleagues in the South Carolina Lowcountry recently won statutory relief from excessive property taxation via their own efforts to campaign for change. Other owners groups have had similar success, as is briefly documented in this report. Property tax appeal, the other means of redress for overburdened courses, is also being actively engaged in and is also discussed and described in this report. ■

FAIR VALUATION IN TODAY'S ENVIRONMENT

Uniformity, more than any other factor, makes real estate appraisal and assessment possible. In a town filled with three-bedroom split-level homes for example, tax assessors know it is their responsibility to value like property in a uniform manner. Golf courses, by contrast, are non-uniform real estate.

The typical golf property is isolated geographically and changes hands infrequently. When a course is sold, it is often bundled with a group of courses in a manner that obscures the value of each individual asset. What's more, despite the fact that golf courses all consist of landscaped ground arranged into fairways and greens, they can differ dramatically in quality from one another.

This lack of uniformity clouds and complicates an otherwise routine governmental procedure. "Courses are complicated to value even for those of us who do it every day," comments Stephen Hughes, a Kansas-based appraiser. "For assessment officers, it has to be a nightmare."

With the cloudiness come unforeseen results that often are unjustified in the minds of golf course owners and operators. Disproportionately high reassessments can stem from an attitudinal shift rather than any economic reality. Over time, golf course owners have become mindful of this. Hoping to avoid the repercussions, they stay alert for changes in how golf property is perceived and defined by public officials, lawmakers, voters and the media. In response to these changes, more and more are taking measures to protect their interests.

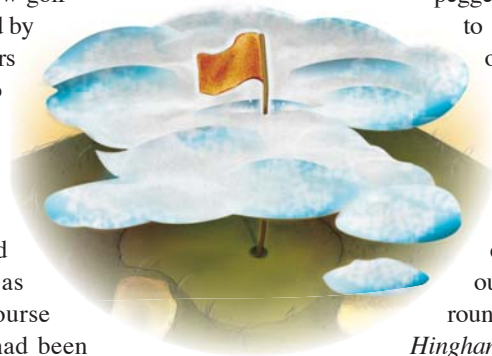
Such vigilance became doubly necessary once gated golf communities emerged as the dominant source of new-course construction. A process that had been confusing a generation ago became truly paradoxical. The property-tax paradox plaguing golf can be expressed simply: Acreage that is lavished with a massive design and construction investment and transformed into a visually stunning landscape ends up holding little or no economic value.

"The land on which golf courses are built is almost always subject to 'value transfer,'" says Tom McIlhenny, a partner in Denver-based Tax Profile Services Inc. "Its value gets permanently reassigned to the adjacent homesites and to building lots throughout the community. The course itself is a write-off."

McIlhenny recently saw dramatic proof of that dynamic. A golf-community developer whose lots were sold out attempted to deed back the golf course to the homeowners' association, per a longstanding agreement. But the homeowners refused to take title. Reasons they opted against owning the course included: ■ It occupied land that, according to covenant, cannot be redeveloped. ■ Its original lofty maintenance standards made it burdensome to maintain. ■ Its small user base (a positive attribute during land sales) made it a weak revenue source going forward.

While a residential golf course forfeits its own inherent value to surrounding homes and homesites, it amplifies the value of those same homes and property. We've all seen the presence of a golf course transform a \$100,000 lot into a \$150,000 lot. But every action has a reaction. Value that flows into the building sites is value deducted from the 18-hole parcel. In cases where an assessor has pegged the land value of the golf acreage to the magically appreciated value of the adjacent house lots, logic and reality are subverted. And the course owner often pays for the misunderstanding.

A recent case in Massachusetts Land Court reveals an interesting judicial grasp of the "value outflow" from golf acreage into surrounding residential plots. The case, *Hingham Land, LLC v. Town of Rockland*, involves a development company that had gained control of a bankrupt golf course in a manner—via mortgage foreclosure—that, according to the developer, cancelled the pre-emptive purchase rights of the town in which the property lay. (The state law, known as 61-B, lowers property taxes on open-space recreational



land and in exchange blocks the landowner's alternate-use redevelopment rights by granting towns the right of first refusal to acquire.)

The developer then filed a plan to convert the regulation-size course into a 9-hole par-3 layout with condominiums lining its compact fairways. According to a Department of Revenue commentary on the case, the developer argued that, if the town did hold any purchase rights, "they were limited to the portion of the golf course on which residences and access roads would be built and at a price based on its full and fair cash value." The court rejected the developer's distinction. The commentary on the developer's ultimately failed claim states:

"[The developer] intended to convert the parcel to residential use. According to the court, this constituted a residential conversion of the whole parcel since the plan for the development of a ... golf community 'permeated' the entire property."

It can be argued that the Land Court's use of the term "permeated" indicated its recognition of the fact that golf acreage sacrifices its inherent value when it borders housing lots in a planned community.

Assessing officers, who rely on uniformity and are justifiably daunted by golf course valuations, use the "replacement cost approach" as their primary method of valuation. "They base their valuations on the Theory of Substitution," says Tampa-based attorney Robert E.V. Kelly, Jr., a veteran of many property-tax cases involving golf. In his view, the replacement concept turns out to be a myth because a golf course "would never be built on its own. The investment needed to build that course simply cannot be understood independent of the entire planned unit development (PUD).

"In residential projects, dollars are poured into the golf course and used to create something else besides that golf facility—namely, lot-sale profits," Kelly adds. "Private clubs are a similar scenario. Money spent building those golf courses is an investment in exclusivity—the right to associate and network with a select, preferred group of people. That exclusivity is what permits initiation fees and annual dues to be set so high. Without it the investment to build and operate the course likely doesn't make sense economically."

When a golf community reaches sellout and build-out stage, the economic nature of its golf course changes. That course becomes similar to a stand-alone, daily-fee

course in that it has no revenue stream separate from user fees. "It is worth—on a capitalized basis—no more and no less than what the operator can make selling green fees, range balls and refreshments," says McIlhenny, whose firm has come to specialize in golf appraisal work strictly as related to property taxation. "That's the essential value of any golf property that is operated as a stand-alone business. It would be, and is, the basis of every purchase price, and by extension, it should be the basis of any appraisal for property taxation purposes."

The ideal assessor – at least in the opinion of most course owners – would be one who understood that stand-alone, fee-based golf operations, despite their lush landscapes and comfortable clubhouses, derive their value from financial performance year-in and year-out. Even better would be the assessor who realized that

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courses built to sell adjoining real estate were diluting the customer base of the surrounding community, as well as clouding the valuation picture. The ideal assessor would also keep his analysis from being tainted by the notion that the golf course was just a very long "interim use" of the real estate, with redevelopment as commercial or residential property in the offing.

But, as Larry Hirsh of Harrisburg, Penn.-based Golf Property Analysts points out, "the issue of what the assessor values is based on jurisdictional law. Some can (determine) value based on highest and best use; others must use present use."

Courses that are assessed on the basis of their business operation—revenue, costs, margins and profit—are asking assessors to give up the misleading simplicity of cost-based valuations and engage in a more specific, detailed analysis of the operation. In other words, they're asking the assessor to work harder. ■

TAXATION PATTERNS AND THEIR EFFECT

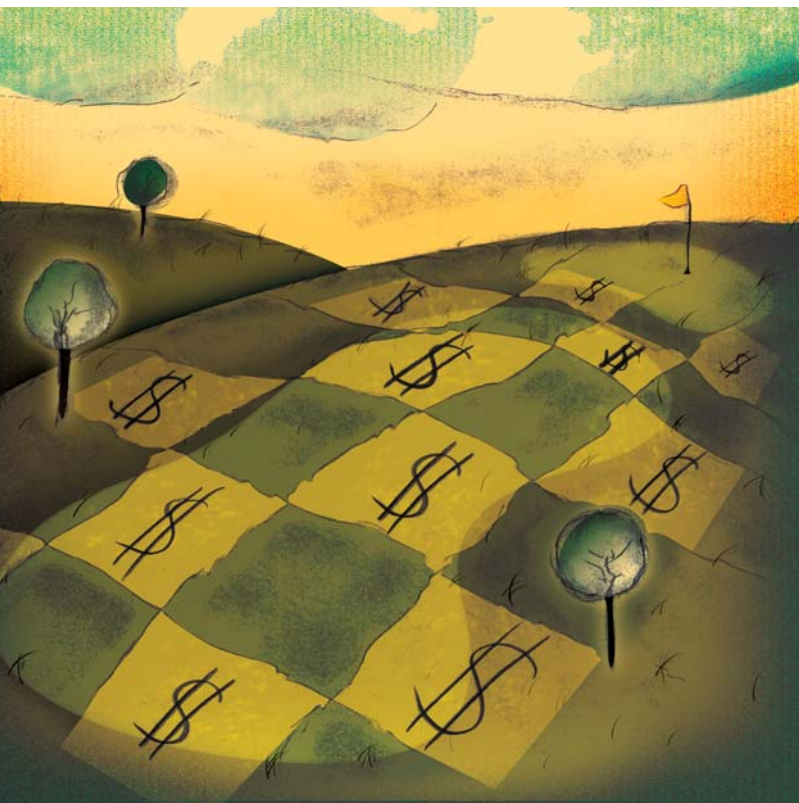
According to economic theory, a for-profit public golf course enjoys other natural advantages relative to local property taxation. On the positive side, the investor who purchases a golf property often pays a reduced price based on the built-in calculation of annual property-tax assessment. This is because property taxation reduces the potential return on real property versus “paper” investments and thus, theoretically, lowers the price of real property from what it would otherwise be.

On the negative side, non-corporate investors in public-fee golf are not granted corporate-style

relocation options that would allow for a move from a higher-tax zone to a lower-tax zone. Unlike factories and distribution centers, for example, golf course investors aren’t lured to new regions by offers of abatements and low valuations.

Tax-policy theorists pose two common questions in reference to businesses whose property tax bills have increased: Can this elevated cost of doing business be readily passed on to the consumer in the form of higher prices? Or, could it be passed on to workers and vendors in the form of wage reductions and reduced costs of supplies?

Privately owned daily fee courses face some challenges, but also have some built-in advantages, when it comes to their fiscal treatment from local and regional government and the electorates they represent. Generally speaking they are:



CHALLENGES

FORCED TO COMPETE AGAINST GOLF COURSES THAT ARE OWNED BY THE TAX-COLLECTING AUTHORITY.

CONSTRAINED IN THEIR PRICING BY THE OFF-MARKET FEE STRUCTURES OF PUBLIC-SUPPORTED COURSES.

ATTRACTIVE TARGETS BECAUSE THEY ARE PATRONIZED BY A RELATIVELY SMALL NUMBER OF LOCAL RESIDENTS AND, LIKE PRIVATE COUNTRY CLUBS, ARE ASSUMED TO HAVE DEEPER POCKETS THAN MAY BE THE CASE.

SUBJECTED TO WATER-USE FEES SO ELEVATED AS TO REPRESENT PENAL TAXATION.

ADVANTAGES

(IN SOME JURISDICTIONS) GRANTED PROPERTY TAX EXEMPTIONS AND VALUATION CAPS, IN RESPECT OF THEIR VALUE AS PRESERVED GREEN SPACE AND PUBLIC RECREATIONAL AMENITY.

GRANTED STATUTORY RELIEF FROM ELEVATED OR VOLATILE PROPERTY VALUE ASSESSMENTS.

PATRONIZED BY ADMINISTRATIVE AND QUASI-GOVERNMENTAL BODIES FOR FUND-RAISING GOLF EVENTS AND BANQUETS.

PROMOTED ON MUNICIPAL WEBSITES AS AREA AMENITIES OF SIGNIFICANCE TO VISITORS AND RELOCATING BUSINESSES.

The property-tax treatment of course owners has also received mixed blessings via their coexistence with 1) private country clubs, and 2) the average taxpayer. As enclaves of affluence, country clubs have been the source of golf's identity as an elitist pastime. That association of golf with extreme wealth has eased the way for any tax jurisdiction wishing to impose a heavy tax burden on the daily-fee sector.

Without doubt the daily *Jersey Journal* was echoing public sentiment when it tweaked members of Liberty National Golf Club, a new club on the New Jersey waterfront that reportedly charges a \$400,000 initiation fee. In reporting that club owners were challenging a \$26.6 million valuation and a \$1.2 million tax bill, the paper said: "When it comes

transaction—not through periodic reassessments," says an experienced appraisal consultant. "It's a law on the books and it got there because a lot of club members with clout pulled together when they thought the tax bills were going up too fast and got a law through the legislature." The same appraiser pointed out that some states including California have limited taxation power on real and personal property as a result of taxpayer revolts and statutes enacted via voter referendums. Golf course owners went along for the ride in both cases.

It's clear that taxation practices, local politics and the local economy have been and will continue to be closely intertwined. Whether knowingly or not, the average taxpayer also exerts a force that

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to paying property taxes, the owners aren't missing a putt." The mangled golf analogy suggests that extremely steep initiation fees preclude the possibility of an unfairly high assessment.

"The real issue here is whether initiation fee value is properly treated as real estate value," Hirsh said. "Initiation fees, equity fees, membership deposits, etc. can all be argued to be something other than income attributable to the real estate. The member gets the rights and privileges of membership in the club as well as the right to pay for using the facility. Think about it this way: If you buy a share of Wal-Mart stock, does that stock price directly relate to the value of a specific Wal-Mart store?"

Historically, when golf properties in general have been hit with disproportionately high property tax bills, the political maneuverings of influential club members have been known to come in handy.

"There are a couple of states where golf courses only get revalued for tax purposes in response to a

serves to raise local taxes on golf property. Tax theory categorizes local property tax as high on the "visibility" scale—taxpayers are fully aware of it and thus would understand the costs of public programs on which they must make decisions via the ballot box. When the public shrugs off property tax increases out of a high priority on, for example, per-pupil education spending, the commercial property taxpayer goes along for that ride, too.

The actions of tax-assessment boards "often depend on the budget economics of the jurisdiction, including the situation with the school districts," says Hirsh. "The largest portion of real estate taxes is school taxes, and school districts have such a vested interest in how properties are assessed—they are often parties to legal actions. In most cases, the school districts are actually the party either initiating a dispute or left to deal with it on their own. This sometimes happens simply because—other than the taxpayer—they stand to gain or lose the most." ■

YOUR POLICY ENVIRONMENT AND HOW TO MANAGE IT

The *Lawrence (Kansas) Journal-World* published an item in November 2003 citing what one city commissioner called “a really creative solution” to a neighborhood problem. The Orchards Golf course, a modest nine-holer in a densely settled part of Lawrence, was rumored to be slated for shutdown by its owner and redeveloped as home sites. Fearing a sudden drop in their property values (or “flood problems,” as they maintained), 55 adjacent property owners volunteered to purchase development rights from the course owner. For the unspectacular sum of \$280,000—about \$5,000 per household—the owner permanently waived the right to use his land for any purpose other than golf. The city of Lawrence liked the idea so well it cut a

as 61-B. According to its provisions, course owners may continue paying taxes as they had in the past, or they can opt to pay considerably less if they agree not to sell the course to a commercial or residential developer. Instead, the town in which the course property is located holds right of first refusal to purchase the property at fair value. In return for entering this agreement, the course owner pays only 25 percent of the land value (plus 100 percent of buildings/improvements value, as measured by a cost approach with a sliding scale for depreciation). If the owner deviates from the terms of the covenant and opts for redevelopment, the town is due rollback payments equal to what the owner saved each year of the program.

The law was enacted in the early 1970s in an effort

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check for the \$280,000 and arranged to collect from the homeowners in annual special assessments.

Owners of golf courses continually scan the horizon for new customers or new competition. But along with business conditions there also are tax-policy conditions to monitor. That nine-hole course in Lawrence, Kansas, represents a microcosm of the tendency for public sentiment to influence or establish new policies for land use and property taxation.

According to the highly respected Lincoln Institute of Land Policy, state legislatures have been enacting preferential property tax programs since the Maryland legislature first did so in 1956. Over the ensuing half-century, the other 49 U.S. states have followed suit. A Lincoln Institute survey from the mid-1990s listed only Maryland, Hawaii and Arizona as having enacted preferential tax treatment specifically in the golf category, although several states group golf into a broader recreational-use treatment.

One such state is Massachusetts, under a law known

to preserve farming activities and open-space lands in the commonwealth of Massachusetts. The public mood at the time had swung decidedly toward environmental activism, so the favorable law could perhaps be foreseen. And yet, sentiment swung dramatically back toward individual self-protection at the end of the ‘70s, culminating in the so-called Proposition 2 ½, a referendum that led to statutory caps on property taxation. Thus, two dissimilar waves of activism each tended to favor course owners in the state.

When preferential tax-treatment laws are developed, golf generally gets grouped under recreation as a land-use category. In some jurisdictions, recreational land is included with farmland. In general there has been a desire to reduce the number of categories built into preferential-treatment legislation as a means of reducing paperwork and disputes. In Illinois, courts have ruled that fairways, greens and tees—although obviously improvements over raw land—should be included in a preferential open-space assessment that applied to woodland, meadow, wetlands, etc. The court

A 25 PERCENT SOLUTION

decision allowed that golf course land “would not sell for the same price as a swamp or bog” of equal size. Rather, said the court, the reduced tax bill on golf properties was an indicator that open space of all types, golf property or boggy wetlands, was basically equal in public value, and thus equally deserved the tax incentive.

In 2006, Virginia passed legislation changing the classification of golf courses to “open space,” aligning golf with agriculture, horticulture, forestry and other recreational land for valuation purposes. Why, after so long being categorized differently, did golf undergo a change? Apparently public concern over redevelopment of golf property for residential use helped pave the



way for passage. Dick Ashe, owner of Kiln Creek Golf Club and Resort in Newport News, Va., volunteered the observation that “golf courses, which provide valuable open space, are being purchased for residential development.” Ashe added: “This development puts a serious drain on Virginia’s environmental resources. In many cases we’re being taxed for a use other than recreation.” At a time when suburban sprawl is a major concern in the Mid-Atlantic region, lawmakers were persuaded to redefine golf as a buffer against the increasingly unwelcome residential subdivision.

The tax-policy environment for a given course owner includes simple logistics such as how often property is reassessed in a particular tax jurisdiction. “Every jurisdiction is a little different,” says Mark Galloway of Galloway Golf Appraisals. “Colorado’s reassessment cycle is two years. In Connecticut, it’s six years. Florida reassesses every year, and their assessors apply the obsolescence and deterioration annually, too. So property there is very accurate-to-market.” ■

While some golf course owners lately have found relief from their property taxes, in Iowa they’re still hoping to get the right people to hear their case. So far, they’re 0 for 2.

“It’s frustrating,” Jeff Wendel, executive director of the Iowa Golf Course Owners Association, said after a bill seeking to create a new class of real property for assessment purposes failed to reach the floor of the state legislature for the second straight year. “But we’ll keep pushing because we need the help.”

When the original owners of many of Iowa’s courses converted farmland to fairways, the conversion triggered reclassification of the land as commercial property. The proposed legislation, which would affect golf courses, ski areas, amusement parks and water parks, would right that wrong, owners contend, by assessing recreational property for tax purposes at 25 percent of its actual value.

“It’s just a matter of getting the right people to understand the golf business in Iowa,” Wendel says. “Most people think course owners, especially the private owners, are making money hand over fist. That’s just not true. Golf makes money only about seven months a year in Iowa.” Wendel adds that four courses have been closed recently and believes that property taxes were a factor in each case.

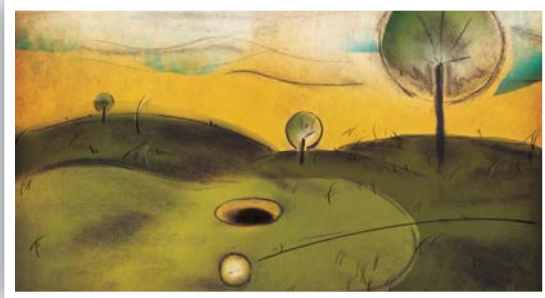
The Iowa owners will make the trip back to the statehouse in Des Moines next January armed with more statistics. They’ve been working with Golf 20/20 and the Stanford Research Institute to develop a persuasive case for golf’s positive economic impact in the largely agrarian state. The report will document golf’s ability to drive tourism, create jobs, influence business location decisions and provide a highly desirable recreational option.

“We’re trying to educate the legislators that golf is good for a community. We’d love to see the public and private entities work together for the common good. Obviously, we’ve got some work to do,” Wendel says.

THE APPEALS PROCESS: DO YOU NEED AN EXPERT?

American trial law is founded on advocacy. An elected prosecutor advocates for the people and keeps the interests of the state uppermost in mind. A defense attorney is an advocate for the accused, pressing points and claims most likely to bring acquittal. These two figures operate as pure adversaries, letting the judge and jury—or perhaps an appellate court—decide who has the most compelling argument.

Property tax assessment and collection, while not conceived as an advocacy system, seems to have evolved into one. At the state level, tax appellate programs are institutionalized in the form of Boards of Equalization. California's BOE, while pursuing its original mission of ensuring that property tax assessments are uniform statewide, manages to collect over \$40 billion a year



in taxes and fees. Counties now offer property tax appeal through a BOE structure. Meanwhile, other types of appeals boards handle fallout from disputed assessments throughout municipal government.

Some, including Connecticut-based appraiser Jeff Dugas, believe assessors aggressively “push the envelope,” especially when valuing commercial property or non-uniform residential property. If their valuations aren't challenged by the property owner, out go heavy tax bills, according to those who share this line of thinking.

Hirsh of Golf Property Analysts, however, says his experience is vastly different. “Yes, there are some overly aggressive assessors, but most seem to want to achieve a fair assessment. In my mind, the problem is not that assessors want to inflate assessments, but that they are logistically confined to the cost approach, which typically encourages higher values.”

Assessors who use the cost-to-replace approach for course valuations turn to resources like the ubiquitous Marshall & Swift Business Valuation Guide, which includes a section on golf courses and even a set of criteria dividing golf properties into classes based on quality and performance. Marshall & Swift's standing as the leading source of building cost data and valuation software adds credibility to assessments that can skew high simply because, as appraiser Galloway asserts, “the assessor decides to view your course a certain way and match it up with an inappropriate M&S class.”

If an assessor seems to be handing out high valuations that even he expects to be challenged, one could hardly blame him given the regularity of challenges these days. Course owners would say their actions are being forced by prevailing conditions. “More and more, they're taking (assessors) on because it's necessary to stay in business,” says Terry Sedalik, executive director of the South Carolina Golf Course Owners Assoc. “In some parts of our state, courses can't pay their property taxes out of their normal operating revenues, so they feel there's no choice.”

“We work with both sides on a regular basis,” Hirsh said, “and one big problem is that the industry oftentimes refuses to share income data with assessors up front. This makes the assessor even more reliant on the cost approach.”

In many cases, course owners' efforts are being rewarded. In a 2004 NGCOA survey, approximately 26 percent of owners responding said they appealed their last property tax bill. Of those that appealed, a whopping 75 percent said they were successful in receiving some relief. (The amount of tax decrease ranged from 10 percent to 48 percent, according to the survey.)

Course owners have access to a network of independent appraisers who specialize in this area and whose success rates on appeal are impressive. And while private appraisers do most of their valuation work relative to purchases and sales, some practices have started focusing exclusively on property tax issues. (Hirsh points out that independent appraisers do not represent a taxpayer or taxing authority. He distinguishes this group from advocate tax consultants, who are paid on a contingency basis and are neither

independent nor, technically speaking, appraisers. These advocates have been shut down in some states by laws precluding some or all of their actions, he adds.)

Another sign of sophistication in the marketplace is the development of the Society of Golf Course Appraisers, which has a growing database of income/expenses and sales information at its fingertips. SGA's by-invitation-only membership has at least a minimum level of golf course appraisal experience and all members have been scrutinized for quality work and reputation.

A course owner may turn to an appraisal firm for help when he experiences a sharp increase or senses inequity in his assessed property value. The property tax expense for most golf courses ranges from approximately 2 to 6 percent of total gross income. That benchmark provides a starting point, but from there it is necessary to investigate similar courses within the same tax jurisdiction and compare valuations, looking for inconsistency. This requires a careful check through common units of comparison, not just a glance at the composite total.

It isn't long before the process becomes tedious and perhaps confusing for anyone not familiar with the terminology and calculations. South Carolina's Sedalick says: "It's frustrating because oftentimes owners can't tell how they were taxed, and the assessor in most cases can't explain it either."

In planning to appeal a valuation, the property owner does bear the burden of proof, but offsetting that burden is the appraiser's dense methodology, which contrasts starkly with the simple, usually single-method calculation performed by an assessor.

When the appraiser sets to work on the appeal, he is required to perform several types of detailed analysis in order to present various measurements and comparisons. He should also have the owner's cooperation in opening up the books to see an operational history, particularly in cases citing deterioration of top-line revenues. Jack Taylor, a Houston appraiser, seizes on the lost-revenue argument as a basis for reduced market value. "It isn't hard to argue that, in our area, demand for golf is going to take a long time to catch up with supply," says Taylor. "We went from 115 to 150 courses in six years, with revenues down commensurately. That's a strong statistic to walk into an appeal with."

Any New Jersey course owner currently petitioning for tax relief would be similarly armed with empirical evidence of adverse market conditions. News articles

about courses shutting down or being purchased by the state appear there frequently. In one case, the owner of Willowbrook Country Club in Burlington County agreed to sell his course to a major real estate developer after 38 years as a family-run operation. "I pay \$10,000 a month in property taxes and can't compete," the owner was quoted as saying.

THE PROPERTY OWNER BEARS THE BURDEN OF PROOF, BUT OFFSETTING THAT BURDEN IS THE APPRAISER'S DENSE METHODOLOGY.

In addition to his proof points, the owner filing an appeal is smart to use plenty of tact and a professional manner in discussing his case with the assessor. Another suggestion is to keep an eye on the calendar. The protest period is usually several months in duration, after which there is no recourse until the next notice.

The proceedings usually start with the petitioner (the taxpayer) presenting evidence to support his opinion of valuation or classification. The respondent then presents evidence in support of the existing valuation or classification. Presenting evidence in addition to what was brought up in informal meetings with the assessor is generally accepted. But the petitioner should avoid changing the grounds or basis of his appeal once the hearing has commenced.

The appeals board, by considering income-based valuations, comparable sales and other data, is not invalidating the standard operating procedure of its field officers. It is merely going beyond its standard procedure to address what would be considered an exceptional case of (possible) over-valuation.

Even when successful, course owners are advised to tread lightly, and to use a baseball analogy, not embarrass the umpire. "When you receive a judgment in your favor," advises Miscovich, "go easy. It's best to take your relief in the out years, in the form of reduced bills. That way, the assessing body doesn't have to reach into its pocket to make good on the judgment. Usually the worst thing you can do with a jurisdiction is to ask for a refund. Challenge, but don't take it out of their pockets." ■

STEPS AND STRATEGIES TO FIND RELIEF

In navigating the modern taxation process, it pays to separate, segregate and itemize. This is true with regard to property tax whether your assessment is based on an income or a cost approach. While assessment via the income approach often works in an owner's favor, in either circumstance separating and defining the component parts of your property and correctly categorizing assets will aid your cause.

In jurisdictions where the personal property of a business gets taxed separately from real property, part of maximizing cash flow is taking advantage of the tighter depreciation schedules for personal property. Those personal-property depreciation schedules (3, 5, 7, 10 or 15 years, depending on the expected life-length of the item) versus real-property schedules (27.5 or 39 years) demonstrate how worthwhile it is to inventory all assets on your site and push as much into the personal category as possible. (For income tax purposes, personal property may also be eligible for a first-year depreciation bonus.)

To determine which timespan is appropriate for a given piece of equipment or other asset, consult the website or printed literature of your taxing body. Miskovich, of Ares Partners, points out that personal property on golf facilities tends to have shorter lifespans than personal property associated with other businesses, and thus qualifies for faster depreciation. "Many of our golf clients fail to place assets in the correct life-length category, which is to their disadvantage," he says.

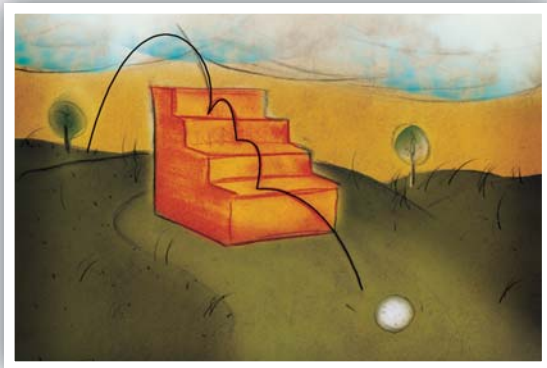
Hirsh notes that the distinction between real and personal property is "huge" and adds that appraisers keep a sharp lookout for incorrectly designated assets. Recently Miskovich's firm challenged the depreciation term for a large collection of video games owned by an inn, and got it reduced from the normal seven-year term for computer equipment to one year, arguing that game users lose interest after such a length of time. Miskovich said his firm also might query and perhaps challenge the expected life length of GPS systems on golf cars, which are more exposed to the elements and user abuse than traditional electronic components on golf car fleets.

When the cost approach to tax assessment is employed, owners should comb through their operation for examples of depreciation or obsolescence and

incorporate such evidence into their argument.

Functional obsolescence is overlooked far more often than depreciation of the wear-and-tear variety. Deterioration of an asset in regular use is easily observed. Ideally, it is listed on a long-term capital improvements replacement spreadsheet. Functional obsolescence, meanwhile, can be hidden in plain sight. It occurs whenever there is a reduction in overall value of your facility due to deficiencies (other than physical deterioration) that reduce or impair functionality compared to what would be present in an up-to-standard replacement.

Functional obsolescence has two versions, curable and incurable. A golf-specific example of curable functional obsolescence would be single-line irrigation. Given that the industry standard for a quality course is double-line irrigation, a single-line system is functionally



obsolete, even if it functions more or less as originally intended. Since that irrigation system can be dug up and replaced, it belongs in the curable category. Meanwhile, the cost to make that improvement is a dollar amount the property owner can enter under "functional obsolescence – irrigation system" and deduct from the cost-based valuation of the property.

An example of incurable functional obsolescence in a golf facility would be lack of a driving range (and lack of available acreage on which to build one). Again, it's simply a matter of fact that acceptable standards for a golf operation now include a driving range as an integral component to conducting business and maximizing revenue opportunities.

A second form of incurable functional obsolescence refers to an asset that functions properly but can be shown either to carry excess construction cost or to generate excess operating expenses when compared to an industry-standard replacement. Galloway of Galloway Golf Appraisers in Louisville, Ky., cites the example of an excessively large golf clubhouse, not uncommon in the upscale daily fee golf category. “We have appraised golf facilities with clubhouses that are as large as 40,000 square feet with less than one-quarter of

course property also requires examination of positive elements—contributors to the cost-to-replace valuation that aren’t real property. Generally known as intangible assets, these include such things as goodwill, going-concern value, reputation, prestige, etc. In golf, where a property can be surrounded not just by luster but also by an actual mystique, it makes sense to represent the going-concern value assertively. Owners should ask themselves how much less they would pay for their own course if it were no different physically but had

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the space ever seeing use. That huge clubhouse is by no means the ideal improvement for the market, therefore it represents major functional obsolescence. In preparing an appraisal, I can’t represent the unused square feet as value, because it brings no value.” In addition, he points out, there are excess operating costs required to heat, clean and maintain all the unused square footage. For both these examples of obsolescence, an amount is determined that represents the costs a market-appropriate asset would generate, compared with actual costs, and the difference is capitalized at the appropriate rate.

Finally there is a condition known as external obsolescence. It refers not to an asset itself, but to the market it is intended to serve. “The oversupply of golf courses and negative supply-demand effects on revenue can be characterized as external obsolescence,” says attorney Robert E.V. Kelley. Kelley and others point out that, even though these forms of depreciation apply to appraisals that use the widely prevalent cost approach, they are by no means routinely factored in by the assessing officer. “Obsolescence isn’t part of the computer programs most of them use,” he says. Therefore, it is up to the taxpayer to see that these factors are not overlooked.

Accurately estimating the valuation of a golf

none of its word-of-mouth loyalty, no history, no place in the community. That amount should be considered in the valuation.

“If you have a first-class facility and you have kept it in pristine condition, you won’t get far claiming high percentages of lost value compared to brand-new,” Miskovich of Ares Partners says. A better approach, he contends, is “drilling down” into the specifics, and “taking the property apart item by item.”

For example, in some regions nearly every golf course has wetlands not suitable for building. “Out of 180 acres,” says Miskovich, “there might be 30 acres of wetlands, which should be valued at zero. They are non-usable ground.” Likewise, he says, with drainage ditches, utility easements and several other characteristics. “It’s simple enough to point to DNR requirements that say the course owner can’t touch the wetlands. In challenges like this we are getting reductions nine times out of 10.”

Ares Partners’ appraisers also routinely measure paved cart paths if they believe the assessor has overestimated their square footage and thus overvalued the improvement. They also reclassify filtration systems, HVAC systems, even kitchen hood vents onto the personal property ledger and into shorter depreciation schedules, where appropriate. ■

STATUTORY RELIEF THROUGH POLITICAL ACTIVISM

The response to onerous or unfair treatment by property tax authorities can come from individual owners, who can appeal their valuation, or a consortium of owners who can go the political route and seek legal reform at the state or county level. There are situations and circumstances in which appeal on an individual basis is most practical and appropriate. When the other option is chosen,

courses approach the \$1 billion mark.” It uses that statistic and many others as it campaigns for legislative aid surrounding the critical issue of availability and cost of irrigation water.

With so many different groups achieving their tax-relief goals via the legislative process, the variety of methods, tactics and strategies available to be studied is abundant. The following are examples:

“WE NOW HAVE GREAT CONFIDENCE IN OUR ASSOCIATION’S ABILITY TO TAKE ON DIFFICULT AND COSTLY TASKS IN THE FUTURE.”

however, and successfully pursued, the benefits are much more long-term—not to mention broadly shared by all owners in the jurisdiction.

There is an important secondary benefit for course owners who organize behind the cause of property tax relief. Once that goal is achieved, the infrastructure for pursuing other important causes with lawmakers or bureaucrats is in place. Owners who did important committee work in South Carolina, Nevada and other states can rely on their experience with the property-tax initiatives when other government-affected issues arise. “Our executive director coordinated the production of a well-oiled machine, including attorneys, legislators, public relations, members, assessors, and other associations,” says David Lucas, president of the South Carolina owners chapter. “We now have great confidence in our association’s ability to take on difficult and costly tasks in the future.”

In Michigan, where property taxes are among those being scrutinized statewide, the golf course owners group maintains a government affairs committee and even a political action group. The MGCOA researched and generated an impressive metric stating golf’s value to Michigan real estate, claiming “real estate property values around golf

MARYLAND

In Maryland, 135 taxpaying golf courses had seen rapid increases in property assessments through the late 1990s and into the new decade—including 42 percent in 2005. In the public debate that surrounded the course owners’ plea for reform, financial pressures leading to the sale of golf courses to housing developers was part of the dialogue. The remedy was a simple change to a set per-acre land value, down to \$1,000 from as high as \$5,000. Reports stated that the average course owner would save about \$5,000 annually on its property tax bill.

SOUTH CAROLINA

South Carolina’s grievance centered on multiple taxation. The bill it sought passage of cancelled out the value of tangible and intangible personal property from the fair market value of the golf course for ad valorem tax purposes. Specifically, the new code prescribed that income from personal property at the golf course (both tangible and intangible) is excluded for purposes of property tax assessments. Tangible personal property was deemed to include golf cars, furniture, fixtures, office machines, etc. Intangible personal property was said to include licenses and permits, the golf course name or reputation, customer

EFFECTIVE ACTIONS

lists, management systems, management contracts, supplier relationships, tournament contracts and non-compete covenants.

“Given that some of this income could be considered attributable to the real estate, this was a great victory for the golf course industry,” Hirsh says.

VIRGINIA

Virginia’s initiative was a simple reclassification of golf property as open space for the purposes of property tax valuation. When fully in effect, the local option is expected to provide a significant financial benefit to course owners where local authorities recognize the open-space classification.

NEVADA

In Nevada, as in Maryland, the issue was excessive per-acre valuation. In response came a bill that placed golf courses in a special open-space category and limited the value of the land. In the future, every acre of golf course land will have an assessed value of \$2,860 and a taxable value of \$1,000. Course improvements will be assessed using a usage factor determined by dividing the actual rounds by the maximum possible rounds for a 12-month period. These changes are expected to bring tax savings of 20 to 50 percent in the years to come. ■

Reviewing the paths that course owners took to achieve their goals, certain effective actions stand out. These included:

Being vocal about current and/or imminent tax treatment and reinforcing the responses of fellow owners helped energize efforts to affect change.

Assigning important tasks and duties to the appropriate individuals and committees.

Gathering information from member courses to develop “best practices”.

Talking with prospective lobbyists and determining how the entire project could be financed.

Presenting as much positive evidence as possible on the economic and environmental importance of public-fee golf.

Stressing the inefficiency, waste and discord brought about by the property-tax appeals process.