Certification of Word Count: 4,487

COLORADO COURT OF APPEALS 2 East 14th Avenue, Suite 300 Denver, Colorado 80203	FILED IN THE COURT of APPEALS STATE OF COLORADO JAN 30 2009 Clerk, Court of Appeals
Arapahoe County District Court The Honorable J. Mark Hannen Case No. 03CV0762	
Appellants: THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO; and THE CITY OF CHERRY HILLS VILLAGE, COLORADO v. **Appellees:** SOUTH SUBURBAN PARK AND RECREATION DISTRICT, THE BOARD OF DIRECTORS OF THE SOUTH SUBURBAN PARK AND RECREATION DISTRICT, and ALL TAXPAYING ELECTORS OF THE TERRITORY SOUGHT TO BE EXCLUDED, AS A CLASS	▲ **COURT USE ONLY** ▲ No. 08CA1232
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REPLY BRIEF

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INTRODUCTION

Far from rebutting Cherry Hills' points on appeal, the District's answer brief actually confirms one of Cherry Hills' key points: the sole basis for the trial court's Second Order was the District's anticipated loss of property tax revenue. The District spends four pages recounting the evidence that supposedly supports the Second Order, but all of that evidence — every single record citation — discusses loss of tax revenue and its effects. (Ans. Br. 19-22.) Significantly, the District does not dispute Cherry Hills' showing that a trial court is barred by statute from ordering a withdrawing city to compensate a special district for lost future tax revenues.

Other than loss of a portion of its tax base, the District identifies no other evidence supporting the trial court's Second Order. Cherry Hills pointed out that the District has no need of replacement parks and does not intend to use any money received from Cherry Hills to purchase such parks. (Op. Br. 7, 26.) The District does not disagree. Cherry Hills also discussed each of the eight statutory criteria and showed that none of them logically indicates that Cherry Hills should pay the District for the FMV of the Parks. (*Id.* 25-32.) The District conspicuously avoids discussing the statutory criteria individually, confirming by its silence that none of those criteria supports the order to pay FMV.

Instead, the District resorts to vague and conclusory assertions that the "trial court's rationale is valid" (Ans. Br. 17), and that there is "ample support within the appellate record" (*id.* 23) for the trial court's ruling. Whenever the District cites actual evidence or points to a specific claimed rationale for the trial court's order, however, it always comes down to the same thing: loss of tax revenue. Because that rationale is barred by statute, the Second Order must be reversed.

The operative facts have been found by the trial court and are not challenged on appeal. Therefore, this Court is in as good a position as the trial court to apply the statute to the facts. That analysis leads inexorably to the conclusion that Cherry Hills should make no payment to the District.

ARGUMENT

I. CHERRY HILLS RAISES ONLY LEGAL ISSUES, WHICH ARE REVIEWED DE NOVO.

In its answer brief, the District does not dispute that the first issue raised by Cherry Hills — whether the trial court complied with this Court's mandate — is reviewed de novo. The District insists, however, that this Court defer to the trial court's determination that payment of the FMV of the Parks is "fair and equitable." Critical to its argument is the District's attempt to characterize Cherry Hills' contentions as a factual dispute. Yet, Cherry Hills has not appealed any of the trial

court's findings of evidentiary fact. Rather, it argues that the court erred by (1) drawing the legal conclusion that lost tax revenue is a permissible ground for ordering a withdrawing city to make a payment to a special district; and (2) applying this erroneous legal standard to the facts. These are legal issues that appellate courts review de novo. *See Freedom Colo. Info., Inc. v. El Paso County Sheriff's Dep't*, 196 P.3d 892, 897-98 (Colo. 2008) (questions of law are reviewed de novo); *Chapman v. Willey*, 134 P.3d 568, 569 (Colo. App. 2006) (application of legal standards is reviewed de novo).

The legal nature of Cherry Hills' contention is confirmed by this Court's decision remanding the case for an articulation of the trial court's rationale, while ordering that the trial court "shall not take further evidence." *City Council v. S. Suburban Park & Rec. Dist.*, 160 P.3d 376, 381-82, 383 (Colo. App. 2007). By limiting the trial court to further consideration of the conclusions to be drawn from the evidentiary facts it had already found, this Court's mandate necessarily framed the issues on remand as legal in nature. *See Scott v. County of Custer*, 178 P.3d 1240, 1247 (Colo. App. 2007) (conclusion to be drawn from undisputed facts is a question of law). And, the de novo standard is applied to a contention that a trial court's order rests upon an erroneous legal rationale. *Black v. Waterman*, 83 P.3d

1130, 1134 (Colo. App. 2003) (remanding where "reasons articulated by the trial court ... are legally insufficient").

The cases cited by the District do not suggest otherwise. They are inapposite here because they concern the review of factual findings, rather than legal rationale. *See Peterson v. Colo. Potato Flake & Mfg. Co.*, 435 P.2d 237, 240 (Colo. 1967) (reversing trial court's damages award as inadequate under the available evidence); *Mulhern v. Hederich*, 430 P.2d 469, 470 (Colo. 1967) ("We deem the questions posed by this writ of error to be factual ones and not matters of law."); *Interbank Invs., L.L.C. v. Vail Valley Consol. Water Dist.*, 12 P.3d 1224, 1231 (Colo. App. 2000) ("As fact finder, the trial court has the sole prerogative for fixing the amount of damages"). Similarly, the passage from this Court's prior decision cited by the District concerns "evidence to support findings of fact." *City Council*, 160 P.3d at 380 (quoting *Bockstiegel v. Bd. of County Comm'rs*, 97 P.3d 324, 328 (Colo. App. 2004)).

In short, Cherry Hills challenges the legal rationale for the trial court's ruling, based on the evidentiary facts as found by the court, which is an issue of law and is reviewed de novo.

II. THE TRIAL COURT FAILED TO COMPLY WITH THIS COURT'S MANDATE TO "FURTHER EXPLAIN ITS RATIONALE."

In its opening brief (at 13-19), Cherry Hills argued that the trial court failed to comply with this Court's mandate by (1) failing to delete the sentence that this Court had held to be a misstatement of the governing statute and (2) failing to "further explain its rationale if it again awards the District FMV." *City Council*, 160 P.3d at 382. The District responds that the trial court did what this Court directed by:

(1) adding paragraphs 23 to 32 to the Second Order, which the District says "set forth the 'rationale' of the trial court in affirming the award of FMV" (Ans. Br. 13); and

(2) in light of those ten new paragraphs, changing its conclusion in the First Order that Cherry Hills "must pay" (1:244 ¶22) to a conclusion that Cherry Hills "should pay" (3:742 ¶33) the District for the FMV of the Parks. (Ans. Br. 12-15.)

If the newly-added paragraphs in the Second Order did, in fact, set forth some lawful rationale that was supported by substantial evidence, then the District would have a valid point. But nothing in the trial court's ten new paragraphs articulates any such rationale. Instead, as described below, this new section of the Second Order:

A. reiterates the District's loss of tax revenue, which is not a lawful ground for ordering Cherry Hills to pay any sum to the District;

B. quotes or paraphrases the eight statutory factors, recites that the court considered six of them, but says nothing about any conclusions the court may have drawn from those factors; and

C. refers to two of Cherry Hills' main points.

A. Three of the New Paragraphs Reiterate the Trial Court's Unlawful Reliance on the District's Lost Tax Revenue.

Of the ten new paragraphs in the Second Order, the District attributes particular significance to paragraphs 27 through 29, which the District says "set forth critical factual findings and provide the rationale for the trial court's ultimate orders." (Ans. Br. 13.) These three paragraphs, however, address only the District's projected loss of tax revenue. Paragraph 27 of the Second Order states that the "financial impact of the exclusion on the District is over one million dollars per year." (3:741.) Paragraph 28 states that the "loss of revenue from exclusion" will negatively affect the District's services or user fees, and paragraph 29 states that exclusion will negatively affect the District's programs and facilities. (*Id.*) These three paragraphs are supported by numerous record citations which, as

shown in Point III below, identify evidence pertaining solely and exclusively to the effects of the District's anticipated loss of tax revenue.[1]

These paragraphs of the Second Order merely reiterate the sole reason that the trial court has ever articulated for ordering Cherry Hills to pay FMV: that the District will have a smaller tax base and therefore less property tax revenue. However, as discussed in the opening brief (at 19-24) and Point III below, this rationale is forbidden by statute as a ground for ordering a withdrawing city to pay money to a special district.

B. Some of the New Paragraphs Merely Recite That the Trial Court Has Considered Certain of the Statutory Factors, With No Further Explanation.

Five of the ten new paragraphs merely recite the statutory factors and say that the court has "considered" six of them. Paragraph 23 quotes section 32-1-502(2)(d), C.R.S. (2007) and paraphrases several of its provisions. (3:739-40.) Paragraph 24 simply quotes section 32-1-502(2)(c), C.R.S. (2007), which lists the eight factors for the court to consider. (3:740.) Paragraph 25 then recites that the

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[1] The trial court echoes this point in Paragraph 31, stating that one of the court's two original reasons for entering the First Order was that the exclusion caused the District to lose "almost 13 percent of its tax base." (3:742.) This figure is exaggerated. The District's own evidence was that Cherry Hills constituted 11.89% of the tax base for the District's General Fund. (6:146[10-17]; *see* District's closing argument at 9:63[2-5].)

trial court "has considered" the first two factors, but gives no indication of what the court thought of those factors or whether they militate for or against a requirement to pay FMV. (*Id.*) Paragraph 26 states that the trial court "has also considered" the third factor listed in the statute, but again says nothing about what conclusions, if any, the court drew from considering that factor. (*Id.*) Finally, the first sentence of paragraph 33 paraphrases the fifth, seventh and eighth statutory factors and says the court "must consider" those factors. (3:742.) Again, the court does not explain how it evaluated those factors, which party they favored, or why. Nothing in any of these paragraphs even arguably sets forth a rationale for ordering Cherry Hills to pay FMV.

C. The Remaining Paragraphs Merely Refer, Without Comment, to Points Favoring Cherry Hills.

The remaining paragraphs likewise contain no rationale for the trial court's Second Order because they merely refer to some of Cherry Hills' main points. Paragraph 30 summarizes Cherry Hills' point that the Parks remain available after exclusion for use by residents of the District, just as they had been before. (3:741.) In paragraph 32 the court *agrees with* this point, which cuts strongly against any requirement to pay FMV. (3:742.)

In paragraph 31, the trial court states that one of the two reasons underlying its First Order was that the Parks would no longer be "integral components of the

District's parks and recreation program," so the "District could no longer improve, manage, regulate, lease, encumber, trade, or sell this property." (3:741-42.) It is unclear what it means for the Parks to be "integral components" of the District's program, or why such integration would imply that Cherry Hills should pay FMV to the District. As to the court's reference to improving, managing and regulating the Parks, Cherry Hills has emphasized throughout these proceedings that it has taken over the full cost of maintaining and managing the Parks, which naturally reduces the District's costs. (Op. Br. 6; 1:68 §§C.4, D.) As to the reference to leasing, trading or selling the Parks, the District introduced no evidence that it wished to take such actions — and, in any event, doing so would be inconsistent with the District's mission to provide its residents with access to parks and recreation. Cherry Hills, in comparison, has adopted an ordinance providing that the Parks "shall be maintained in perpetuity in public trust for the use and benefit of the public" (3:633), and has offered to stipulate to the entry of an injunction to that effect. (3:741 ¶30.)

In sum, the court's references to points favoring Cherry Hills provides no rationale for again ordering it to pay FMV to the District.

D. In Light of the Absence of a Lawful Rationale Anywhere in the Ten New Paragraphs, the Trial Court Has Failed to Comply With This Court's Mandate.

Following the new section of the Second Order, the trial court concludes: "With these criteria in mind, in order for the exclusion to be fair and equitable, the City should pay to the District the FMV [of] the transferred facilities." (3:742 ¶33.) If the section of the order leading up to this sentence contained any lawful rationale that was supported by substantial evidence, then the trial court would have complied with this Court's mandate. However, other than the forbidden reliance on lost tax revenues (*see* Point III below), one simply cannot find such a rationale anywhere in these new paragraphs.

As a result, the Second Order does not comply with this Court's mandate.[2] The trial court again ordered Cherry Hills to pay FMV without "further explain[ing] its rationale," and without deleting the sentence that this Court found to be a misstatement of the law. *See City Council*, 160 P.3d at 381-82, 383. The

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[2] It is worth noting that the District has misstated what the mandate was. The District contends that the Court "mandated that the trial court 'shall consider' the fair market value of the assets transferred." (Ans. Br. 16.) Although the words "shall consider" were in quotation marks, the District gave no page citation. In fact, the quoted words appear nowhere in the Court's opinion. Nor can any actual passage in the Court's opinion fairly be read as directing the trial court to give special attention to the FMV of the Parks.

trial court simply announced its conclusion that Cherry Hills "should pay" FMV — with no explanation of how it reached that conclusion.

The District contends that this procedure was legally sufficient and that the trial court's conclusions are essentially non-reviewable on appeal. (Ans. Br. 17-18 ("the factual determinations as to what is 'fair and equitable' is [sic] the sole prerogative and responsibility of the trial court").) However, in a wide variety of contexts and under a wide variety of statutes, the Colorado appellate courts have made clear that such conclusory rulings are unacceptable. *See Flakes v. People*, 153 P.3d 427, 438 (Colo. 2007) (remanding where the trial court "failed to make adequate findings before imposing an adult sentence"); *Mau v. E.P.H. Corp.*, 638 P.2d 777, 780-781 (Colo. 1981) (award of attorney fees remanded "because the court did not spell out its reasons for reaching its conclusion"); *Butler v. Lembeck*, 182 P.3d 1185, 1193 (Colo. App. 2007) (determination of costs award remanded because "there is no explanation why the court excluded the balance of the costs requested"); *Gitlitz v. Bellock*, 171 P.3d 1274, 1278 (Colo. App. 2007) (ruling on preliminary injunction remanded because appellate court was "unable to determine whether the district court's finding ... is the result of a rejection of case law ... or whether it is the result of a lack of evidence"); *In re Marriage of Fields*, 779 P.2d 1371, 1374 (Colo. App. 1989) (dissolution of marriage proceeding

remanded because "the trial court did not articulate the reasons for allocating to each party a 50% interest in ... property").

In short, the trial court's Second Order remains insufficient. Other than the prohibited rationale that the District will lose tax revenue, the order provides no explanation and is simply the trial court's *ipse dixit*. As such, the Second Order does not comply with this Court's mandate.

III. ALL OF THE EVIDENCE CITED IN THE NEW SECTION OF THE SECOND ORDER IS BASED ON LOSS OF TAX REVENUE, WHICH IS NOT A LAWFUL GROUND FOR THE ORDER.

Pointing to paragraphs 27 through 29 of the Second Order, the District asserts that the trial court cited sufficient evidence to support its order to pay FMV. (Ans. Br. 13, 19-23.) All of the evidence cited in those three paragraphs, however, concerned (1) the District's allegation that it would lose approximately $1 million per year in property tax revenue from Cherry Hills residents and (2) the impact on the District of that loss.

The trial court begins by citing Exhibits Y and Z, copies of which are attached to this brief. (3:741 ¶27.) Exhibit Z includes only the key section of Exhibit Y and thus is easier to read. It presents projected reductions of property tax and specific ownership tax receipts from Cherry Hills Village, referred to on the exhibit as "CHV," netted against expected savings from not having to provide

services to Cherry Hills. (Ex. Z.) In his closing argument, the District's counsel made it very clear that the lost revenues on which he premised the District's defense were tax revenues:

> And it's not a one time one million dollars. The District will be short that *property tax revenue* forever. And that is an impairment and a burden on the District's ability to serve and it is a burden thrust on the rest of the District.

(9:61[8-12]; emphasis added.)

All the rest of the trial court's record citations in paragraphs 27 to 29 discuss either the predicted million-dollar loss of tax revenue or its effect on the District's programs. *See* **citations in ¶27:** 6:106[23]-107[11][3] (explaining Exhibits Y and Z); 8:18[7]-19[22] (discussion of Exhibits Y and Z); **citations in ¶28:** 6:170[6-22] (if "the full share of property taxes ... were no longer available," then "somewhere that slack is going to have to be picked up"); 7:53[24]-57[1] (discussing the difficulty of raising user fees to cover the loss of tax revenue); 7:99[15-17] ("I think there's clearly an economic impact when you lose 11.89 percent of your general property tax revenue"); 8:32[25]-33[1] ("My opinion is that the loss to the District is the loss of those property tax dollars."); 8:33[20-21] (the District

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[3] The volumes of the record have been renumbered since the first appeal because a new Volume 3 was added. As a result, each of the trial court's references to record volumes 3 and higher must be increased by one.

"cannot control the loss of these property tax dollars; they can't ever make them up"); 8:33[25]-34[6] (the District can raise fees to compensate); **citations in ¶29:** 6:173[15-22] (loss of one million dollars per year would place a burden on the District); 7:57[13]-59[6] (City of Lakewood had to cut services due to a budget shortfall); 7:89[4]-91[18] (fee increases may not be able to cover the revenue loss); 7:92[24]-93[25] (loss of one million dollars per year would impair the District's service); 8:12[9]-15[22] & Ex. AA (if the District were to lose all of its tax revenues, not just from Cherry Hills, user fees would have to be increased by 64%).

As Cherry Hills showed in its opening brief (at 19-24), the exclusion statute specifies that when a city is excluded from a special district, its territory "shall not be subject to any property tax levied by the board" of the special district for the district's operating costs. § 32-1-503(1), C.R.S. (2008). The same statutory section provides that the territory of an excluded city is not liable for "payment of any bonded indebtedness created after the date of the court's exclusion order." Taken together, these provisions expressly bar taxation of an excluded city for any purpose except payment of its share of debt incurred while the city was still part of the district. Self-evidently, if the district itself cannot impose ongoing taxes on an

excluded city, the court cannot require the city to make a payment in lieu of such taxes.

The District does not disagree. It does not contend that the statutory power to impose fair and equitable conditions permits a court to require a withdrawing city to replace any portion of the tax revenue that the district would lose due to the city's exclusion.

Instead, the District presents four meritless arguments why the court's award of FMV was not a forbidden substitute for future property taxes. *First*, the District makes the surprising assertion that Cherry Hills provided "no ... citation to the record to support its contention that the trial court was awarding FMV in lieu of awarding District taxes from the excluded property owners." (Ans. Br. 24-25.) To the contrary, Cherry Hills devoted more than a full page of its opening brief to providing exactly those record citations. (Op. Br. 19-20.) The trial court candidly admitted that one of its two reasons for awarding FMV in its First Order was that, "as a result of the exclusion order, the District has lost almost 13 percent of its tax base." (3:742 ¶31.) The Second Order contains three paragraphs of findings and conclusions about the amount of the District's predicted reduction in tax revenues and the effect of that reduction on the District's services. (3:741 ¶¶27-29.) The District itself admits that those three paragraphs "provide the rationale for the trial

court's ultimate orders." (Ans. Br. 13.) As reflected by the record citations listed above, the District premised much of its case at trial on its loss of tax revenue. Thus, the record richly confirms that the trial court's award of FMV was an attempt to force Cherry Hills to replace the District's lost revenues.

Second, the District argues that the award of FMV was "not a tax" because loss of tax revenue "is perpetual," while the award of FMV is "a one-time payment that does not approximate the District's permanent lost tax revenue." (Ans. Br. 25.) But it was the District's own choice to claim compensation for nine years of lost tax revenue — from 2006 through 2014. (*See* Ex. Z.) The District reduced that amount to a net present value of $10,446,792 (*id.*), and then asked the trial court to award that amount (plus other sums) as part of its order. (9:80[15-23].) The trial court's award of $9.6 million was more than 92 percent of the amount claimed, and the District itself points to evidence of lost tax revenue to support the court's award. (Ans. Br. 13, 20-22.) There is little doubt that the court intended the award of FMV to correspond to the lost tax revenue.

Third, the District argues that the award of FMV was not a replacement for lost future tax revenue because "the award of FMV is to be paid by City, not by the taxpayers within the excluded area." (Ans. Br. 25.) This is a specious distinction because the source of the funds that Cherry Hills would use to pay the District is

taxes paid by its citizens. Conversely, if those funds are not paid to the District, Cherry Hills could use the money for other municipal purposes instead of collecting future taxes from its citizens. Thus, for purposes of tax revenues, there is no valid distinction between Cherry Hills and its taxpayers.

Finally, the District argues that its expert "did not solely identify the lost property taxes," but instead "evaluated nine specific line items of District revenue." (*Id.*) This statement is misleading, at best. The nine revenue items to which the District refers are the District's revenues *before* considering the impact of exclusion. (Ex. Y (*see* nine line items under "Revenues" heading).) The exhibit showing the impact of exclusion shows that substantially all of the District's projected lost revenue is attributable to "CHV Property Tax" and "Specific Ownership Tax." (*See* Exh. Z.) In her testimony, the District's accounting expert confirmed that the District's projected revenue loss would be from taxes payable by citizens of Cherry Hills. (8:18[11-25], 20[3-21].)

In short, the sole rationale identified by the trial court for again ordering Cherry Hills to pay FMV is compensation for the District's expected loss of future tax revenues. The District does not dispute that this rationale violates section 32-1-503(1).

IV. CHERRY HILLS' ARGUMENTS HAVE NOT PREVIOUSLY BEEN CONSIDERED BY THIS COURT.

The District also argues that the issues raised by Cherry Hills in this appeal "have been rejected by the trial court (twice) and by this Court." (Ans. Br. 15.) To the contrary, none of the issues raised by Cherry Hills in this appeal were addressed or ruled on in this Court's 2007 decision. The Court listed Cherry Hills' "four contentions of error as to the FMV award," 160 P.3d at 379, none of which matches up with any of the issues raised in this second appeal.[4] Tellingly, the District provides no page reference to support its assertion.

As for rulings by the trial court, it would not matter if that court had decided any of the issues against Cherry Hills. Indeed, the very purpose of an appeal is to challenge the trial court's adverse ruling. As it happens, although Cherry Hills presented the issues raised in this appeal, the trial court chose not to rule on them. For example, Cherry Hills argued that the exclusion statute bars the court from ordering payment of FMV as a means of compensating a special district for its loss

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[4] The four contentions were: (1) that the trial court should not have considered the eight statutory factors without first finding that the exclusion would result in impairment of service or imposition of an additional burden, 160 P.3d at 379; (2) that if the trial court was permitted to consider the statutory factors, it should have specifically addressed how each factor affects the award of FMV, *id.* at 380; (3) that the trial court erred in reading the statute to require an award of FMV *id.* at 381; and (4) an award of FMV would conflict with the public trust doctrine. *Id.* at 382. This Court agreed with only the third.

of tax revenue from the excluded territory (3:628, 672-74), but the trial court's Second Order does not acknowledge the point or rule on it.

In sum, the points raised in this appeal were not addressed in this Court's prior decision. All of Cherry Hills' points are now ripe for decision.

CONCLUSION

The answer brief does not dispute that a trial court is statutorily barred from ordering a withdrawing city to compensate a special district for the loss of tax revenues that the district naturally experiences due to the city's exclusion. Here, the trial court did just that, and it identified no lawful rationale that would support an order to pay FMV. Thus, the Second Order is deficient as a matter of law and fails to comply with this Court's mandate.

The Second Order should be reversed insofar as it orders Cherry Hills to pay the District for the FMV of the Parks. This Court should not remand again, but should apply the statutory factors to the evidentiary facts as found by the trial court. As shown in the opening brief (at 25-32), that process reveals no legally sufficient rationale for the order to pay FMV. Accordingly, the trial court should be directed to enter an amended final order in which the order to pay FMV is deleted.

Dated: January 30, 2009

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CERTIFICATE OF SERVICE

The undersigned certifies that on January 30, 2009, a copy of the foregoing **REPLY BRIEF** was served by first-class mail, postage prepaid, addressed to:

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Judy Terranova

Schedule 3

South Suburban Park and Recreation District
General Fund, Conservation Trust Fund and Enterprise Fund
Cash Flow Projections
Re: City of Cherry Hills Village Petition to Exclude from South Suburban Park and Recreation District

	Actual 2002	Actual 2003	Final Budget 2004	Projected 2005	Projected % Increase	Projected 2006	Projected 2007	Projected 2008	Projected 2009	Projected 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	TOTAL	Calculated Loss
Revenues																
General Operating Property Tax	$ 9,547,688	$ 9,785,292	$ 9,581,308	$ 9,899,407	3.32%	$ 10,228,067	$ 10,567,639	$10,918,485	$ 11,280,979	$ 11,655,508	$ 12,042,471	$12,442,281	$ 12,855,365	$ 13,282,163	$ 105,272,958	
One Mill Property Tax	2,100,633	2,187,834	2,153,897	2,225,406	3.32%	2,299,289	2,375,625	2,454,496	2,535,985	2,620,180					12,285,575	
Specific Ownership Tax	1,701,120	1,629,176	1,600,000	1,653,120	3.32%	1,708,004	1,764,710	1,823,298	1,883,831	1,946,374	2,010,994	2,077,759	2,146,741	2,218,013	17,579,724	
Lottery Proceeds	691,255	683,936	640,000	640,000	0.00%	640,000	640,000	640,000	640,000	640,000	640,000	640,000	640,000	640,000	5,760,000	
Intergovernmental	261,507	1,110,532	1,004,240	1,004,240	0.00%	1,004,240	1,004,240	1,004,240	1,004,240	1,004,240	1,004,240	1,004,240	1,004,240	1,004,240	9,038,160	
Donations/Grants	247,496	200,838	530,309	530,309	0.00%	530,309	530,309	530,309	530,309	530,309	530,309	530,309	530,309	530,309	4,772,781	
Net Investment Income	211,856	170,385	85,343	85,343	0.00%	85,343	85,343	85,343	85,343	85,343	85,343	85,343	85,343	85,343	768,087	
Program Revenue (1)	19,519,034	18,696,302	21,467,261	22,895,457	3.08%	23,600,637	24,327,537	25,076,825	25,849,191	26,645,346	27,466,023	28,311,977	29,183,986	30,082,853	240,544,375	
Other Revenue	561,661	2,673,990	2,229,149	229,149	0.00%	229,149	229,149	229,149	229,149	229,149	229,149	229,149	229,149	229,149	2,062,341	
Total Revenue	34,842,250	37,138,285	39,291,507	39,162,431		40,325,038	41,524,552	42,762,145	44,039,027	45,356,449	44,008,529	45,321,058	46,675,133	48,072,070	398,084,001	
Expenditures (2)																
Salary and Benefits	15,713,655	16,026,803	17,685,113	19,199,197		19,887,533	20,600,616	21,339,337	22,104,621	22,897,427	23,718,747	24,569,609	25,451,079	26,364,262	206,933,231	
Program Expenses	796,781	796,248	867,926	968,336		997,386	1,027,307	1,058,126	1,089,870	1,122,566	1,156,243	1,190,930	1,226,658	1,263,458	10,132,544	
Supplies, Service & Mat'l	3,694,207	3,741,632	4,271,330	4,473,843		4,608,059	4,746,301	4,888,690	5,035,350	5,186,411	5,342,003	5,502,263	5,667,331	5,837,351	46,813,759	
Maintenance, Eqpmt., Utilities	2,745,430	2,562,189	2,725,888	3,018,390		3,108,942	3,202,210	3,298,276	3,397,224	3,499,141	3,604,115	3,712,239	3,823,606	3,938,313	31,584,066	
Other Expenses	3,080,921	2,936,332	3,583,514	3,681,132		3,781,700	3,885,306	3,992,041	4,101,999	4,215,281	4,331,986	4,452,215	4,576,077	4,703,681	38,040,286	
Debt Service - General Fund	1,074,994	1,078,569	1,074,523	1,079,149		1,076,616	1,077,710	1,076,310	1,074,060	1,078,470	-	-	-	-	5,383,166	
Debt Service - Enterprise Fund	1,532,809	1,595,692	1,581,183	1,585,950		1,586,963	1,580,337	1,576,315	1,584,605	1,574,830	1,582,820	1,483,968	1,447,550	1,447,550	13,864,938	
Total Operating Expenditures	28,638,797	28,737,465	31,789,477	34,005,997		35,047,199	36,119,787	37,229,095	38,387,729	39,574,126	39,735,914	40,911,224	42,192,301	43,554,615	352,751,990	
Capital Outlay	4,203,464	4,155,791	17,652,260	4,329,568		4,459,455	4,593,239	4,731,036	4,872,967	5,019,156	4,669,731	4,809,823	4,954,118	5,102,742	43,212,267	
Total Expenditures	32,842,261	32,893,256	49,441,737	38,335,565		39,506,654	40,713,026	41,960,131	43,260,696	44,593,282	44,405,645	45,721,047	47,146,419	48,657,357	395,964,257	
Net revenue over expenditures w/ CHV	1,999,989	4,245,029	(10,150,230)	826,866		818,384	811,526	802,014	778,331	763,167	(397,116)	(399,989)	(471,286)	(585,287)	2,119,744	
Beginning Funds Available with CHV	7,915,154	9,915,143	14,160,172	4,009,942	(3)	4,836,808	5,655,192	6,466,718	7,268,732	8,047,063	8,810,230	8,413,114	8,013,125	7,541,839	4,836,808	
Ending Funds Available with CHV	9,915,143	14,160,172	4,009,942	4,836,808		5,655,192	6,466,718	7,268,732	8,047,063	8,810,230	8,413,114	8,013,125	7,541,839	6,956,552	6,956,552	$ 6,956,552
Net revenue over expenditures w/ CHV	1,999,989	4,245,029	(10,150,230)	826,866		818,384	811,526	802,014	778,331	763,167	(397,116)	(399,989)	(471,286)	(585,287)	2,119,744	
Less After CHV Exclusion																
CHV Property Tax					3.32%	(1,216,117)	(1,256,492)	(1,298,208)	(1,341,309)	(1,385,840)	(1,431,850)	(1,479,387)	(1,528,503)	(1,579,249)	(12,516,955)	
Specific Ownership Tax					3.32%	(203,082)	(209,824)	(216,790)	(223,987)	(231,423)	(239,106)	(247,044)	(255,246)	(263,720)	(2,090,222)	
Lottery Proceeds					0.00%	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)	(240,192)	
Treasurer Fees					3.32%	18,242	18,847	19,473	20,120	20,788	21,478	22,191	22,928	23,689	187,756	
Maintenance of CHV Parks & Trails					3.00%	182,416	187,888	193,525	199,331	205,311	211,470	217,814	224,348	231,078	1,853,181	
Capital Outlay					3.00%	154,500	159,135	163,909	168,826	173,891	179,108	184,481	190,015	195,715	1,569,580	
Net reduction in revenues						(1,090,729)	(1,127,134)	(1,164,779)	(1,203,707)	(1,243,961)	(1,285,588)	(1,328,633)	(1,373,146)	(1,419,175)	(11,236,852)	
Net Revenue Over Expenditures-Without CHV	1,999,989	4,245,029	(10,150,230)	826,866		(272,345)	(315,608)	(362,765)	(425,376)	(480,794)	(1,682,704)	(1,728,622)	(1,844,432)	(2,004,462)	(9,117,108)	
Beginning Funds Available without CHV	7,915,154	9,915,143	14,160,172	4,009,942		4,836,808	4,564,463	4,248,855	3,886,090	3,460,714	2,979,920	1,297,216	(431,406)	(2,275,838)	4,836,808	
Ending Funds Available without CHV	9,915,143	14,160,172	4,009,942	4,836,808		4,564,463	4,248,855	3,886,090	3,460,714	2,979,920	1,297,216	(431,406)	(2,275,838)	(4,280,300)	(4,280,300)	(4,280,300)
Difference in Ending Funds Available Without CHV						1,090,729	1,127,134	1,164,779	1,203,707	1,243,961	1,285,588	1,328,633	1,373,146	1,419,175		$11,236,852
Discount Factor						0.9780	0.9662	0.9546	0.9431	0.9317	0.9205	0.9094	0.8984	0.8876		
Net Present Value						1,066,748	1,089,066	1,111,875	1,135,186	1,159,008	1,183,355	1,208,237	1,233,666	1,259,651		
CUMULATIVE TOTAL - NET PRESENT VALUE						$ 1,066,748	$ 2,155,814	$ 3,267,689	$ 4,402,875	$ 5,561,883	$ 6,745,238	$ 7,953,475	$ 9,187,141	$ 10,446,792		$10,446,792

Footnotes:
(1) Program Revenues for 2004 include $624,546 for six months of operations for the Lone Tree Recreation Center. 2005 Program Revenues are 2004 Program Revenues (less $624,546) increased by 3.08% plus $911,524 for Lone Tree Recreation Center and $499,262 for Littleton Recreation Center, which represents a full year of operations for both new facilities
(2) Expenditures for 2004 include $808,167 for Lone Tree Recreation Center operations. 2005 expenditures are increased by projected percentages, plus an additional $369,975 for Lone Tree Recreation Center and $869,583 for Littleton Recreation Center.
(3) A large portion of the Funds Available are required reserve balances including $1.37 million in the General Fund and $1.46 million in the Enterprise Fund

South Suburban Park and Recreation District
General Fund, Conservation Trust Fund and Enterprise Fund
SUMMARY OF IMPACT TO DISTRICT WITH CHV EXCLUSION
Re: City of Cherry Hills Village Petition to Exclude from South Suburban Park and Recreation District

	Projected % Increase	Projected 2006	Projected 2007	Projected 2008	Projected 2009	Projected 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014
CHV Property Tax	3.32%	$ (1,216,117)	$ (1,256,492)	$ (1,298,208)	$ (1,341,309)	$ (1,385,840)	$ (1,431,850)	$ (1,479,387)	$ (1,528,503)	$ (1,579,249)
Specific Ownership Tax	3.32%	(203,082)	(209,824)	(216,790)	(223,987)	(231,423)	(239,106)	(247,044)	(255,246)	(263,720)
Lottery Proceeds	0.00%	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)	(26,688)
Treasurer Fees	3.32%	18,242	18,847	19,473	20,120	20,788	21,478	22,191	22,928	23,689
Maintenance of CHV Parks & Trails	3.00%	182,416	187,888	193,525	199,331	205,311	211,470	217,814	224,348	231,078
Capital Outlay	3.00%	154,500	159,135	163,909	168,826	173,891	179,108	184,481	190,015	195,715
Net reduction in revenues		(1,090,729)	(1,127,134)	(1,164,779)	(1,203,707)	(1,243,961)	(1,285,588)	(1,328,633)	(1,373,146)	(1,419,175)
Discount Factor		0.9780	0.9662	0.9546	0.9431	0.9317	0.9205	0.9094	0.8984	0.8876
Net Present Value		(1,066,748)	(1,089,066)	(1,111,875)	(1,135,186)	(1,159,008)	(1,183,355)	(1,208,237)	(1,233,666)	(1,259,651)
CUMULATIVE TOTAL - NET PRESENT VALUE		$ (1,066,748)	$ (2,155,814)	$ (3,267,689)	$ (4,402,875)	$ (5,561,883)	$ (6,745,238)	$ (7,953,475)	$ (9,187,141)	$ (10,446,792)