

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ASPEN SKIING COMPANY, LLC</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53191</p>
<p>AMENDED ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 5, 2011, MaryKay Kelley and James R. Meurer presiding. Petitioner was represented by F. Brittin Clayton, III, Esq. Respondent was represented by Christopher G. Seldin, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Petitioner and Respondent have stipulated to a net operating income (NOI) for the subject property of \$5,865,054.00, which equates to the net cash flow of \$6,988,183.00 minus reserves for replacement of \$1,123,129.00. The parties also concurred that the income approach is the primary methodology to value the subject.

Subject property is described as follows:

**675 E. Durant Avenue, Aspen, Colorado
Pitkin County Schedule No. R012297**

The subject is the Little Nell Hotel located at the base of Aspen Mountain in Aspen, Colorado. The facility, which was constructed in 1990, consists of 92 units and is one of two five-diamond hotels located in Colorado. In addition to the 92 units, the property contains underground parking for 109 vehicles, retail & restaurant space, meeting rooms, a fitness center, and a spa. The Little Nell is considered to be a high quality luxury, full-service hotel in a destination resort area.

Petitioner is requesting an actual value of \$64,600,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$81,726,900.00 for the subject property for tax year 2009 but is recommending a reduction to \$81,512,500.00.

Petitioner presented the following indicator of value:

Income Approach: \$64,600,000.00

Respondent presented the following indicator of value:

Income \$81,512,500.00
Approach:

Subsequent to the referenced stipulation, the only significant point at issue in the hearing was the appropriate overall rate (a.k.a. cap. rate, capitalization rate, or R_o) to convert the net operating income into an estimate of value and the methods used to support this rate. Petitioner used a 7.75% overall rate and Respondent used overall rates ranging from 5.50% to 6.50% with Respondent's final opinion of value reflecting a rate of 6.32%. The sources and respective overall rates that were used in the analysis for both Petitioner and Respondent are reflected in the following table:

Source	Petitioner Avg. Base	Respondent Avg. Base
Korpaz (Luxury)	7.67%	7.50%
Korpaz (Full Service)	8.50%	N/A
Realty Rates (Full Service)	9.58%	N/A
RERC (Hotels)	7.60%	N/A
Burbach & Associates (Hotels/Motels) S. 2008	9.00%	9.05%
ACLI (Hotels)	6.90%	N/A
ACLI (Hotels/Mountain)	8.00%	N/A
Real Capital Analytics	N/A	7.07
Vail Mountain Resort Sale Extraction (Vail CO)	8.70%	N/A
Snake River Lodge Sale Extraction (Teton Village)	8.60%	N/A
Hotel Jerome Sale Extraction (Aspen)	8.26%	2.50% -6.30%
Aspen Cap. Rate Study	N/A	2.48% -6.49%
Concluded/Reconciled Overall Base Rate	7.75%	5.50% -6.50%

Both Petitioner and Respondent referenced information in their reports and testimony that would positively or negatively affect the base rates referenced above. These factors included the exclusivity of the subject, the uniqueness of the Aspen market, the seasonal occupancy issues of the facility, the lack of developable land in the submarket, and the stability of the management of the hotel. In addition, Petitioner and Respondent's witnesses testified as to the appropriateness of the individual surveys and rates extracted from sales, the weight that should be afforded to each, and the flaws associated with the opposing parties' analysis and conclusions.

Once the base rates were reconciled by the parties and a final rate was concluded, they were adjusted to include a tax load of 0.88%, equating to a composite overall rate for Petitioner of 8.63% and 6.38% to 7.38% for Respondent.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2009 valuation of the subject property was incorrect. The Board concludes that Respondent’s analysis and overall rate range is more supportable given the characteristics of the subject property (five-diamond luxury full-service hotel) and the nature of the Aspen market. However, the Board also concludes that some adjustment to Respondent’s base rate(s) must be accomplished to reflect the degree of risk (e.g. seasonal occupancy and macro economic conditions) associated with the property. The Board also concludes that some of the more positive attributes of the property were incorporated into the income and expense line items leading to the net operating income, and it would be inappropriate to also include the impact of these in the base rate. After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes a base capitalization rate of 7.00% is most supportable for the subject property.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$70,695,000.00. This value is calculated as follows:

Stipulated Net Operating Income (NOI)	\$5,865,054.00
Concluded Base Overall Rate	7.00%
Tax Load	0.88%
Composite Rate	7.88%
Indicated Value	\$74,429,619.00
Minus Personal Property	\$3,735,400.00
Real Property Value	70,694,219.00
Round	\$70,695,000.00

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$70,695,000.00.

The Pitkin County Assessor is directed to change their records accordingly.

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).

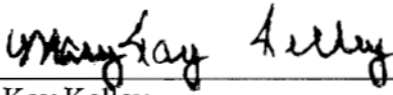
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 29 day of April 2011.

BOARD OF ASSESSMENT APPEALS

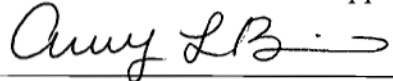


Mary Kay Kelley



James R. Meurer

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



Amy Bruins

