

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>IMPERIAL HOLDINGS GROUP LLC,</p> <p>v.</p> <p>Respondent:</p> <p>TELLER COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 58850 & 58851</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 13, 2012, Gregg Near and Lyle D. Hansen presiding. Petitioner was represented by Ms. Cullen Wheelock, Esq. Respondent was represented by Mr. Paul Hurcomb, Esq. Petitioner is requesting an abatement/refund of taxes on the subject properties for tax year 2010.

Petitioner and Respondent stipulated to: 1.) admission of Petitioner's Exhibits 7A, 7B, 7D and 7G; 2.) stipulated to admission of Respondent's Exhibits Nos. One and Two; 3.) to an improvement value of \$208,924.00 for the hotel only as that value related to the Cost Approach; and, 4.) to land sale No. One in the hotel appraisal.

Subject properties are described as follows:

For the hotel: (Petition #58851)

**123 North Third Street, Cripple Creek, Colorado 80813
Teller County Schedule No. R0050573**

For the casino: (Petition #58850)

**279 East Bennett Avenue, Cripple Creek, Colorado 80813
Teller County Schedule No. R0000308**

The subject property consists of a hotel and a gaming casino. The two buildings are attached to each other.

The hotel is a three-story brick masonry structure built in 1896 with an addition in 1950. The building contains a total of 14,942 square feet of gross building area above grade and a 7,274 square foot basement and storage area. The improvement condition was rated as worn out. The improvements are situated on a 24,393 square foot lot.

The gaming casino is a two and one-half story brick masonry structure built in 1896 and remodeled into a casino in 1991. The building contains a total of 14,121 square feet of gross building area. The improvement condition was rated as below average attributable to deferred maintenance and no significant upgrades since the original opening date. The improvements are situated on a 6,098.40 square foot lot.

For the hotel property:

Petitioner's representative, Ms. Cullen Wheelock, presented an indicated value of \$260,000.00 on the Petition and revised the value at the hearing to \$318,000.00. She did not present a market approach, a cost approach or an income approach to value to support Petitioner's value conclusion.

Petitioner is requesting a 2010 actual value of \$318,000.00 for the subject property.

Petitioner's witness, Mr. Gary Ledford, testified that he purchased the Cripple Creek Hotel in February of 2004 at a purchase price of \$200,000.00 and that Respondent's appraiser did not consider this sale in his market value analysis. He testified that the subject hotel in 2008 was "worn out." He testified that it had a poorly functional floor plan with a total of 26 rooms but only ten rooms with a bath; the remaining rooms sharing common bathrooms on each floor. Mr. Ledford testified that the restaurant/bar was not code compliant but was "grandfathered in" and that the basement was condemned. He testified to multiple sales of vacant building and vacant lot sales that had occurred in Cripple Creek in 2005 and 2006 where sale prices ranged from \$60,000.00 to \$156,400.00. Mr. Ledford testified that he did not engage the services of a Colorado Certified Appraiser to provide a supportable estimate of value for the hotel. He testified that the costs of operating the hotel, including real estate taxes, utilities, hazard insurance and employee expenses result in a loss in revenue with no net operating income that could be capitalized into a value estimate.

Respondent's appraiser, Mr. Brad Larson, a Colorado Certified General Appraiser with the Teller County Assessor's Office, presented the following indicators of value:

Market:	\$ 866,636.00
Cost:	\$1,144,833.00
Income:	\$ 843,146.00

Mr. Larson presented three comparable sales ranging in sale price from \$525,000.00 to \$4,400,000.00, in number of rooms from eight to 67, and in size from 2,875 to 37,704 square feet. After adjustments were made, Mr. Larson concluded to a value of \$50,000.00 per room and a value of \$58.00 per square foot. He concluded to a value by the market approach of \$866,636.00.

Mr. Larson used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,144,833.00. He concluded to a land value of \$935,909.00 and an improvement value of \$208,924.00.

Mr. Larson used the income approach to derive a value of \$843,146.00 for the subject property. He concluded to a daily room rate of \$66.00 for the 16 rooms for 365 days; a seasonal vacancy rate of 65% reflecting an occupancy rate of 35%; cumulative expenses at 40%; and a capitalization rate of 9.6%.

Mr. Larson testified that he concluded a daily room rate obtained from the market of \$66.00 as a standard room rate considering a 40% discount for winter rates. He testified that his occupancy rate of 35% came from published Teller County occupancy rates. Mr. Larson testified that his expense ratio of 40% came from developers and his experience. He derived his overall capitalization rate by application of the Band of Investment. Mr. Larson placed primary reliance upon the income approach as a value indication for the subject hotel. He testified that the hotel was operating as a hotel as of January 1, 2010.

Mr. Larson testified that, as a result of his interior and exterior inspection of the hotel on February 8, 2012, he concluded that the improvements are “worn out” and in need of rehabilitation and remodeling.

Respondent assigned an actual value of \$1,250,000.00 to the subject hotel for tax year 2010 but is recommending a reduction in the assigned actual value to \$844,000.00.

For the casino property:

Ms. Wheelock presented an indicated value of \$400,000.00. She did not present a market approach, a cost approach, or an income approach to value to support Petitioner’s value conclusion. Petitioner is requesting a 2010 actual value of \$400,000.00 for the subject property.

Mr. Ledford testified that the subject casino condition in 2008 was below average. His opinion of value for the casino was \$400,000.00. Mr. Ledford testified that he did not engage the services of a Colorado Certified Appraiser to provide a supportable estimate of value for the casino.

Ms. Pam Killebrew, a Colorado Certified General Appraiser employed by the Teller County Assessor’s Office, presented the following indicators of value:

Market:	\$2,373,881.00
Cost:	\$2,376,031.00
Income:	0.00

Ms. Killebrew presented three comparable sales ranging in sale price from \$400,000.00 to \$2,048,000.00, and in size from 5,709 to 7,712 square feet. After adjustments were made, Ms. Killebrew concluded to a value of \$168.11 per square foot. She concluded to a value by the market approach of \$2,373,881.00.

Ms. Killebrew used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$2,376,031.00. She concluded to a land value of \$1,026,361.00 and an improvement value of \$1,349,670.00.

Ms. Killebrew did not complete the income approach because she was unable to obtain income and expense information from competing casinos.

Ms. Killebrew placed primary reliance upon the market approach as a value indication for the subject casino. The Teller County Assessor assigned a 2010 actual value to the subject of \$2,231,912.00. The Teller County Board of County Commissioners approved a 25% reduction to the original 2010 tax year valuation for the subject and reduced the assigned actual value to \$1,673,663.00. As stated in Ms. Killebrew's appraisal, this reduction by the BOCC was accomplished to account for the vacancy of the subject with its closing at the end of February, 2010, and, allowing for the casino's rehabilitation to meet current building codes.

The Petition indicated an assigned actual value of \$1,910,584.00 for tax year 2010. Respondent is recommending a reduction of the assigned actual value to \$1,673,663.00 for the subject casino for tax year 2010.

For the Hotel:

Respondent presented sufficient probative evidence and testimony to prove that the 2010 value of the subject property should be reduced to Respondent's recommended value.

The Board agreed with Mr. Larson that the income approach is the most reliable of the three approaches to value for the subject since it is an income producing commercial hotel. The Board acknowledged that the value indication by his market approach is in support to the value conclusion by the income approach. Mr. Larson utilized market information from two competing hotels in Cripple Creek and one hotel in nearby Victor to support his conclusion. Mr. Larson, in developing his income approach, relied upon data obtained from Cripple Creek hotel rental rates and data from Summit Economics research for hotel vacancy rates.

The Board concurs with Respondent that the 2010 actual value of the subject property should be reduced to \$844,000.00.

For the casino:

Sufficient probative evidence and testimony was presented to prove that the 2010 value of the subject property should be reduced to Respondent's recommended value.

The Board agreed with Ms. Killebrew that the market approach is the more reliable of the two approaches to value applied. The Board relied upon her comparable sales one and two both of which are competing casinos in Cripple Creek. The Board agreed with her adjustments for improvement condition, improvement size and site size adjustments. The Board recognized that the Teller County Board of County Commissioners had reduced the Assessor's assigned actual value for tax year 2010 by 25% to account for vacancy and for the rehabilitation of the improvements.

The Board concurs with Respondent that the 2010 actual value of the subject property should be reduced to \$1,673,663.00.

ORDER:

For the Hotel: (Docket #58851)

Respondent is ordered to cause an abatement/refund to Petitioner based on a 2010 actual value for the subject property of \$844,000.00.

For the casino: (Docket #58850)

Respondent is ordered to cause an abatement/refund to Petitioner based on a 2010 actual value for the subject property of \$1,673,663.00.

The Teller County Assessor is directed to change his/her 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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 26th day of March, 2012.



BOARD OF ASSESSMENT APPEALS

A handwritten signature in black ink, appearing to read "Gregg Near", written over a horizontal line.

Gregg Near

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Lyle D. Hansen

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

A handwritten signature in black ink, appearing to read "Milla Crichton", written over a horizontal line.

Milla Crichton