BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: BACHELOR GULCH PROPERTIES, LLC, v. Respondent: EAGLE COUNTY BOARD OF EQUALIZATION.	Docket No.: 62578

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 24, 2014, James R. Meurer and Debra A. Baumbach presiding. Petitioner was represented by F. Brittin Clayton III, Esq. Respondent was represented by Christina Hooper, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

Ritz-Carlton, Bachelor Gulch Property
130 Daybreak Ridge, Avon CO
Eagle County Schedule No. R060016

The subject property is known as the Ritz Carlton Bachelor Gulch, a 117 room ski-in, ski-out trophy hotel property located in the Bachelor Gulch Village of the Beaver Creek Ski Resort. The hotel complex was constructed in 2002, and includes 201,638 square feet contained in floors one through eight of the complex. In addition to 117 rooms, there is a lobby and great room, common areas, meeting rooms, outdoor hot tubs and pool, and an underground parking garage. The subject units are allocated 1.749 acres of commercial condominium land and are zoned PUD through Eagle County.

The subject 117 room hotel is the main component in an existing condominium project known as the Bachelor Gulch Resort and Spa, and is part of the condominium-owners association. In addition to the hotel rooms, this association includes 50 residential condos, 27 residential penthouses, and several other commercial units. Management and operation of the subject is via the Ritz Carlton Hotel Company and includes rental. housekeeping services and concierge services for the units included within the project. The Ritz Carlton Hotel Company also operates the spa as a part of the hotel.

Petitioner is requesting an actual value of $12,100,000 for the subject property for tax year 2013. Respondent provided an appraisal reflecting a value of $25,000,000; however is deferring to the Board of Equalization's (BOE) assigned value of $21,600,000 for tax year 2013.

Petitioner presented the following indicators of value:

Market:	N/A
Cost:	N/A
Income:	$12,100,000

Petitioner's witness, Ms. Jodi Sullivan, MAI and Director of Duff & Phelps did not prepare an independent appraisal report, but rather completed a valuation analysis on the subject. She did not testify as an appraiser, but as a property tax consultant, and was admitted as an expert witness. Ms. Sullivan testified she considered the market, cost and income approaches in valuing the subject property, and gave most weight to the income approach in her final conclusion of value.

Relative to the income approach, Ms. Sullivan relied on the actual income and expenses from the subject property's financial statements in developing a stabilized net operating income (NOI). Based on a review of this operating data, Ms. Sullivan concluded to an Average Daily Rate (ADR) of $328.05, 58% occupancy, and Revenue Per Available Room (RevPAR) of $190.27. In terms of expenses, Ms. Sullivan testified she reviewed the ratio between the hotel and condominium revenues in allocating reasonable hotel expenses. She concluded to 28.7% expense ratio, which was applied to the hotel revenue. Other reported expenses relating to the operation of the hotel (general and administrative, marketing, utilities, repairs and maintenance) were adjusted because they included a portion of the expenses related to the condominium rental pool. Fixed expenses including insurance, reserves for replacement and furniture, fixtures and equipment were based on the actual expenses. Although spa amenities were not included in the appeal, the hotel is responsible for the furniture, fixtures and equipment and any fees related to credit card commission. Any income, fees and commissions related to the amenities not included in the appeal were allocated out of the analysis in concluding to the NOI.

Ms. Sullivan acknowledged that she based her analysis on the financial reports she was provided by Petitioner and some of income and expenses common to the condominium owners and the hotel were not allocated as separate line items. Such income and expenses included resort fees per room and the condominium association reimbursements for expenses related to the common area shared by the condominium owners and the hotel. Ms. Sullivan did indicate she was somewhat unfamiliar with some of the expense categories when questioned by Respondent and the Board.

Subsequent to the analysis of income and expenses, Ms. Sullivan testified she concluded to a capitalization rate of 8.00% based on review of four investor surveys and two comparable hotel sales located in a similar resort area. The four investor surveys indicated an average capitalization rate of 8.71%. Ms. Sullivan gave most weight to Korpacz Full-Service Class at 8.04%. Secondary weight was given to the sales of the Limelight Lodge with an imputed 8.70% rate, and St. Regis with an imputed rate of 11.33%, both located in the Aspen area. She gave most consideration to the rates reported from the investor surveys as opposed to the rates indicated by the comparable sales, as they were considered the most supportable.

In addition to Ms. Sullivan, Petitioner's witness, Mr. John Gruber, Director of Finance for Ritz-Carlton, testified to the allocation of income and expenses on the financial reports. Mr. Gruber testified the resort fees and other fees from various amenities are allocated to different departments and are not reported as a separate line item on the subject's income and expense reports.

Respondent presented the following indicators of value:

Market:	$30,000,000
Cost:	N/A
Income:	$21,000,000

Respondent's witness, Mr. William R. Hopping MAI with W.R. Hopping and Co. Inc., specializes in the valuation of hospitality properties and was admitted as an expert. Mr. Hopping developed and presented an independent appraisal report giving weight to the income and market (sales comparison) approaches.

Mr. Ryan Kane MAI, with Eagle County Assessor's Office assisted Mr. Hopping in the preparation of his report. Mr. Kane testified that he was involved in the valuation process for the mass appraisal valuation in 2012, and had authored several sections of Mr. Hopping's report.

Mr. Hopping presented a sales comparison approach consisting of four comparable sales of resort hotels. The sales ranged in sales price from $20,000,000 to $72,640,000 or $215,054 to $391,061 per room. The sales were adjusted for revenue per available room (RevPAR) in comparison to the subject property. After adjustments for RevPAR, sales price per room were as follows: Limelight Lodge - $300,992, St. Regis - $380,278, JW Marriott $512,210 and Snake River Lodge and Spa $365,186. Mr. Hopping concluded to a value via the market approach of $300,000 per room or $35,100,000 ($35,000,000 rounded). In addition to a RevPAR analysis, Mr. Hopping employed a room rent multiplier as a unit of comparison. The extracted multipliers ranged from 4.22 to 5.92 and the analysis concluded to a rent multiplier of 3.5 indicating a value of $29,500,000 for the subject. Based on the analysis, Mr. Hopping concluded to a value of $30,000,000 based on a market approach.

In addition to a market approach, Mr. Hopping developed an income approach to derive a value of $21,000,000 for the subject. Mr. Hopping testified the property owner's representative identified thirteen hotel properties as direct competitors of the subject property. Mr. Hopping compared historical operating data from the competing hotels in identifying the subject's market share based on local conditions and trends. Although Mr. Hopping was provided a 12 month profit and loss statement ending December 31, 2011, he was not provided full monthly income and expense breakdowns. Mr. Hopping made modifications to the profit and loss statements provided by Petitioner. In addition, Mr. Hopping used historical operating data from another Ritz-Carlton Hotel in calculating income and expenses. Mr. Hopping also considered a custom Host report published by Smith Travel Research, a database of operating statements from participating hotels. Mr. Hopping concluded to a projected room rate of $375.00 and occupancy of 60%. Mr. Hopping relied on the 2011 profit and loss statement for the subject property in deriving other income and segregating expenses and concluded to a projected net operating income for the subject of $1,349,000.

Mr. Hopping testified that he reviewed two investor surveys; PwC Real Estate Investor Survey and PKF Hospitality Investment Survey as a benchmark in determining an appropriate overall rate. PwC reported rates from 6% to 10% with an average of 8.05% and PKF Hospitality Investment Survey reported rates from 4% to 12% averaging 7.3% to 7.88%. Mr. Hopping testified that deriving capitalization rates from comparable sales is more preferred method than relying on the investor surveys. Mr. Hopping gave most weight to the capitalization rate derived from the three ski area sales; Limelight Lodge, at 4.6%, the St. Regis at $5.1 and the Snake River Lodge and Spa at 3.9. The sales indicated a narrow range of 3.9% to 5.1% with an average rate of 4.5%. Mr. Hopping testified that based on the additional income the hotel receives from the condominium rental program, there is less risk associated with the hotel assets and concluded to a capitalization rate of 4.5% before loading the effective tax rate.

Mr. Hopping further testified that Petitioner's capitalization rate is based on the anticipation of future streams rather than historical income. Mr. Hopping testified that Ms. Sullivan gave more weight on published surveys in deriving a capitalization rate which is primarily based on buyer's expectations of future income streams. Mr. Hopping stated that based on ad valorem property valuation estimating, future earning potential is not allowed.

In response to Petitioner's overall rate conclusion based on forecasting future earnings, Respondent's witness, Mr. Curt Settle, with Division of Property Taxation, testified that based on *Carrara Place v. Arapahoe County BOE,* 761 P.2d 197 (Colo. 1988) the Division of Property Taxation instructs Assessors to consider income data *prior* to the date of value trending it to the appraisal date.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect.

Based on the exhibits and testimony, the Board concludes that, given the physical and economic characteristics of the property, the income approach best reflects a supportable market value for the subject property. Given this conclusion, a comparison of the variables used in Petitioner's and Respondent's direct capitalization models is found in the following table:

	PETITIONER	RESPONDENT
ADR	$328.05	$375.00
Occupancy	58%	60%
RevPar	$190.27	$225.00
Total Revenue	$19,614,261	$18,973,000
Department Expenses	$12,085,485	$11,212,000
Undistributed Expenses	$4,688,775	$4,996,000
Fixed Charges, Fees, Ins	$597,209	$657,000
Income Before Reserves	$2,349,645	$2,108,000
Reserves	$834,405	$759,000
NOI	$1,408,388	$1,349,000
Overall Rate	8.00%	4.50%
Tax Rate	1.9534%	1.9534%
Total Rate	9.95%	6.45%
Indicated Value	$14,149,889	$20,914,729
Less Personal Property	$2,076,250	N/A
NET VALUE	$12,073,639	$20,914,729
ROUNDED	$12,100,000	$21,000,000

The Board found valid arguments in both Petitioner's and Respondent's analyses in estimating the income and expenses for the subject property. As can be seen from the table above, Ms. Sullivan's and Mr. Hopping's income and expense estimates were within a close range, with the resulting indicated NOI for each party reflecting a mere ±4.2%Δ.

As also can be seen from the chart, the pivotal difference between Mr. Hopping's analysis and Ms. Sullivan's analysis resulting in the final conclusion of value was their estimate of an appropriate and supportable overall rate. Ms. Sullivan concluded to an 8.00% rate prior to the tax load and mainly relied on published surveys forecasting future earnings. Ms. Sullivan also calculated an imputed capitalization rate based on two sales (Limelight Lodge and St. Regis) and concluded to an imputed rate of 8.2% for Limelight and a range of 6.55% to 7.93% (*See* Petitioner's Closing Argument at page 8) for St. Regis. Mr. Hopping concluded to a 4.5% rate, prior to the tax load and relied on published sources, as well as the derivation of an overall rate that ranged from 3.9% to 6.4% from the four sales referenced in his market approach.

The Board makes the following conclusions based on the exhibits and testimony provided by the parties:

- As noted, there is only a minor difference between the NOI for the subject estimated in the income approaches by Petitioner and Respondent. The Board concludes to Petitioner's NOI of $1,408,388 given that the financial information provided by Ritz-

Carlton to Duff and Phelps was more comprehensive, and these data were further supported by the testimony of Mr. John Gruber, Director of Finance for Ritz-Carlton.

- Relative to the conclusion of an appropriate rate for this type of trophy hospitality property, the Board was not convinced that the extraction of a rate from competing properties is optimum. The properties used in both reports are located in complex market areas, reflecting different market perceptions and, according to testimony, the Limelight Lodge was reported to have financial issues which further complicates the extraction of a meaningful rate. In addition the Board understands that specific financial information for these types of properties is highly confidential, and the ability to obtain these data are limited, which also results in supporting a specific rate.

  The Board concludes that utilizing published rates within the relevant base year study period is acceptable, and the Board relies heavily on the data presented by both parties in their analysis. Reference is made to Pages 104 and 105 of Respondent's Exhibit A, and Page 16 of Petitioner's Exhibit 1 where a range of overall capitalization rates for the National Luxury/Upper-Upscale Lodging Segment is referenced. Based on a review of this data, and considering the location, physical characteristics, and reputation of the subject, the Board concludes the base capitalization rate of 6.0% prior to the tax load.

- The parties have stipulated to an effective tax rate of 1.9534% for the property.

- The parties have stipulated to the value of the personal property for the subject in the amount of $2,076,250.

Given the above, the Board applied Petitioner's net operating income of $1,408,388 and a capitalization rate of 6.0% plus an effective tax rate of 1.9534% for a loaded capitalization rate of 7.95%. The Board concludes that the 2013 actual value of the subject property should be reduced to $17,715,000 (rounded) inclusive of personal property. The value of the real estate only is allocated as follows:

Market Value of Real and Personal Property	$17,715,000
Minus Tangible Personal Property	$ 2,076,250
Real Estate Value	$15,640,000, rounded

After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect. Based on the above, the Board concludes that the value of the subject for tax year 2013 is $15,640,000.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to $15,640,000.

The Eagle 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-nine 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-nine 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 22nd day of July, 2014.

BOARD OF ASSESSMENT APPEALS

James R. Meurer

Debra A. Baumbach

Debra A. Baumbach

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

Milla Lishchuk

STATE OF COLORADO
SEAL
BOARD OF ASSESSMENT APPEALS

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