

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 70454**

Petitioner:

**LODGE PROPERTIES INC,**

v.

Respondent:

**EAGLE COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on November 29-30, 2018, Debra A. Baumbach, Samuel M. Forsyth and Sondra W. Mercier presiding. Petitioner was represented by Justin L. Cohen, Esq. and Mark T. Barnes, Esq. Respondent was represented by Christina Hooper, Esq. and M. Patrick Wilson, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Petitioner's Exhibits 1, 2, 3, 5, 6, 17, 25, and 26 were admitted into evidence. Respondent's Exhibits A (revised), B (revised), D, E, F, G, H, J, K, L, R, V, and X were admitted as evidence.

Subject property is described as follows:

**174 Gore Creek Drive, Vail  
Eagle County Schedule No. R065032**

The subject is an 80-room, resort lodging facility situated on a 2.1-acre site. The 78,409-square foot facility was constructed in 1962. Hotel amenities include outdoor pool with hot tubs, spa facility, fitness complex, parking garage, and restaurants. The property is well located in Vail Village, within walking distance of Vail Mountain's Gondola One.

There are 74 individually owned residential condominium units ("third party residential condominium units") within the subject building envelope. The residential units are not part of this appeal. Some of the condominium owners chose to rent out their units to the public for a fee. Vail/Beaver Creek Resort Properties, Inc. and other similar companies provide rental management

services to those residential condominium owners on an individual unit basis. However, there is no obligation for owners to participate in any rental pool.

The subject hotel is owned by Lodge Properties, Inc.; the parent company of this owning partnership is Vail Resorts. As of the retrospective date of value, the hotel was managed by RockResorts International, LLC, an affiliate of the ownership entity (Vail Resort). The Lodge Apartment Condominium Association (LACA) is also managed by RockResorts International, LLC.

Petitioner is requesting an actual value of \$22,800,000 for the subject property for tax year 2017. Respondent assigned a value of \$41,104,470 for the subject property for tax year 2017. Two primary issues before the Board include the inclusion of income generated from rental of the third-party residential condominium units, and the appropriate capitalization rate to apply to the subject.

Petitioner's witness, Josh Davis, Director of Finance with Vail Resorts, testified that he initially provided a combined profit and loss statement for the operations involving the subject hotel. The report included income from Vail/Beaver Creek Resort Properties for management of residential units at The Lodge as well as other Vail locations. Mr. Davis subsequently provided a revised statement that solely reflected The Lodge at Vail hotel operations. The hotel-specific statement had been provided to Respondent and was relied on by Petitioner in its valuation of the subject.

After consideration of all three approaches to value, Petitioner's witness, Brett Russell, Certified General Appraiser with HVS Consulting & Valuation Division of TS Worldwide, LLC, placed the greatest reliance on an income approach to support the requested value of \$22,800,000 (includes personal property valued by Eagle County at \$2,322,560).

Petitioner's income approach relied on historical income and expense information specific to the hotel gathered from the relevant base period. Operating revenue included income generated from nightly room rental and food and beverage income, along with other miscellaneous revenue from the spa and health club. Mr. Russell excluded revenue generated from the nightly rental of the third party-owned condominiums. Mr. Russell testified that in his opinion condominium management revenues constitute intangible assets that must be excluded from valuation of the subject.

Mr. Russell adjusted the subject's historical income and expenses to reflect a free-standing hotel operation without influence from the third-party rental agreement. Consideration was given to operating statements from five comparable properties to provide a test of reasonableness for Petitioner's income approach. Mr. Russell concluded to earnings before interest, tax, depreciation and amortization (EBITDA) of \$1,994,000.

Consideration was given to a sample of sales of full-service luxury hotels, investor survey data, and locationally-relevant hotel sales, to determine the capitalization rate. Mr. Russell also considered the subject's specific property characteristics and concluded to a capitalization rate of 7.25%. Adding an effective tax rate of 1.48%, the EBITDA was capitalized at a rate of 8.73% to indicate a value of \$22,800,000, rounded.

Mr. Russell investigated local and regional hotel sales in consideration of the sales comparison approach. Lacking relevant sales, he declined to conclude to a value using that approach.

Respondent assigned an actual value of \$41,104,470 to the subject property for tax year 2017, which was supported with an appraised value of \$44,335,840, rounded.

Mr. Peter F. Korpacz, President of Korpacz Realty Advisors, Inc. testified on behalf of Respondent. Mr. Korpacz produced a Resort-Hotel Valuation Methodology Study for the Eagle County Board of County Commissioners and the Eagle County Board of Equalization. Mr. Korpacz concluded that net income derived from condominium and fractional interest rental pools is considered a real estate ownership benefit that is factored into acquisition pricing. It is not considered a business income nor an intangible asset.

Respondent's witness, Ryan T. Kane, Certified General Appraiser with the Eagle County Assessor's Office, considered the income and sales comparison approaches to support an appraised value of \$44,335,835 (\$46,658,395 less personal property of \$2,322,560).

Mr. Kane placed the greatest reliance on the income approach to derive value. Operating Revenue included \$3,626,383 in income attributed to the rental of residential condominium units owned by individual parties. After deductions for expenses, including property management expenses related to the condominium units, Mr. Kane concludes to EBITDA of \$3,140,110. A capitalization rate of 5.25% was concluded based primarily on three local sales and Mr. Korpacz's study. Mr. Kane applied a loaded cap rate of 6.73% to reach the concluded value of \$44,335,835. After deducting \$2,322,560 in personal property, Mr. Kane arrived to the subject's 2017 value of \$44,335,840, rounded.

Mr. Kane presented information concerning five comparable sales and two active listings in the sales comparison approach. No value was concluded in that approach.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2017 valuation of the subject property was incorrect. The Board found Petitioner's income and expense analysis most credible. Mr. Russell appropriately excluded the income and expenses related to the management of the third-party residential condominium units, determined by the Board to provide intangible value. Mr. Russell also made appropriate adjustments for marketing, administrative and general expenses shared with the other management entities. Mr. Russell tested his conclusions against data from five competitive properties as a test of found reasonableness.

The Board rejects Respondent's inclusion of over \$3.6 million of revenue derived from the rental of third-party owned residential condominium units. The Board was convinced that the property management income constituted an intangible asset that, while it might be considered in the valuation of a property outside of taxation, did not reflect additional value to the subject real estate. To reach its conclusion, the Board considered Respondent's Exhibit 14, an article produced by the International Association of Assessing Officers' ("IAAO") Special Committee on Intangibles, titled as *Understanding Intangible Assets and Real Estate: A Guide for Real Property Valuation Professionals*, as probative evidence in its determination. The Guide notes the following test: "The

key of the analysis is whether the value is appended to the property, and is thus transferrable with the property, or whether it is, in effect, independent of the property so that the value either stays with the seller or dissipates upon sale.” See Respondent’s Exhibit 14 at page 889.

From the testimony of Mr. Davis, any contributory value of the rental management income associated with the management of the third-party owned condominiums would not transfer with the subject hotel in the event of sale, as that operation is independent of the subject hotel. The Board was convinced that the property management company, Vail/Beaver Creek Resort Properties, Inc., which generates revenue from rental management for outside condominium owners is a separate legal entity from the subject’s hotel owner, Lodge Properties, Inc. Respondent provided no evidence to convince the Board of the contrary. Mr. Korpacz testified that he had not considered the ownership structure in his analysis.

The Board however weighs the analysis provided by each party to determine the appropriate capitalization rate to apply in the income approach. Petitioner considered multiple sources, including a national sample of hotel sales, survey data from multiple sources, and locally relevant sales. Mr. Russell concluded that a base rate of 7.50% was indicated by the data. He then weighed the strengths and weaknesses of the subject to conclude to a rate of 7.25%, tailored specifically for the subject.

Respondent considered three local sales which indicated a range in rates of 4.86% to 5.98%, in addition to investor survey data, which indicated a range of 4.0% to 9.0% for similar lodging properties.

The Board found Mr. Russell’s weighted analysis generally persuasive, as he considered the subject’s physical characteristics and location. However, the Board found Petitioner’s rate of 7.25% gave inadequate weight to several key factors: most notably the subject’s unique prestigious base area location and the significant barriers to entry in the Vail market due to a lack of available land.

Therefore, the Board finds the three local sales to be of some relevance. Although future renovation likely drew downward pressure on two of the three indicated rates, some consideration is appropriate. Those sales would support a capitalization rate range of approximately 5.0% to 6.0%.

Based primarily on local sales, the Board concludes that a rate of 5.50% correctly reflects the unique physical and locational characteristics of the subject. Applying a tax-loaded rate of 6.98% to Petitioner’s EBITDA estimate of \$1,994,000 produces a total value of \$28,567,335. After deducting personal property of \$2,322,560, the Board concludes to a value of \$26,245,000, rounded.

**ORDER:**

Respondent is ordered to reduce the 2017 actual value of the subject property to \$26,245,000.

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 9th day of January, 2019.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*Samuel M. Forsyth*

Samuel M. Forsyth

*Sondra W. Mercier*

Sondra W. Mercier

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

*Milla Lishchuk*

Milla Lishchuk

