<table>
<tr><td>BOARD OF ASSESSMENT APPEALS,<br>STATE OF COLORADO<br>1313 Sherman Street, Room 315<br>Denver, Colorado 80203<br><br>Petitioner:<br><br>BOULDER HOTEL ASSOCIATES,<br><br>v.<br><br>Respondent:<br><br>BOULDER COUNTY BOARD OF EQUALIZATION.</td><td>▲</td></tr>
<tr><td>Attorney or Party Without Attorney for the Petitioner:<br><br>Name: Leonard Kahn<br>Address: 11 Beach Street, Suite 901<br>New York, New York 10013<br>Phone Number: (212) 226-3249<br>E-mail:<br>Attorney Reg. No.:</td><td>Docket Nos. 39583 & 39584</td></tr>
<tr><td colspan="2" align="center">ORDER</td></tr>
</table>

**THIS MATTER** was heard by the Board of Assessment Appeals on March 12, 2002, Debra A. Baumbach and Steffen A. Brown presiding. Petitioner was represented by Leonard Kahn, principal, Boulder Hotel Associates. Respondent was represented by Robert R. Gunning, Esq.

## PROPERTY DESCRIPTION:

Subject property is described as follows:

> **Tr 941 Less A & B & Tr 941 B1 32-1n-70 Per Deed 10**
> **Known as 800 28th Street, Boulder, Colorado**
> **(Boulder County Schedule No. 0003807 01 & 02 Log No. 06582 & 06583)**

Petitioner is protesting the 2001 actual value of the subject property, a full service, 165-room hotel located in Boulder, Colorado, originally built in 1963.

## ISSUES:

### Petitioner:

Petitioner contends that the subject property was negatively impacted by the loss of the Holiday Inn franchise and that this was not adequately taken into account by the Respondent. The franchise is an important factor to the property value and the Respondent constructed erroneous data resulting in an overvalued property.

### Respondent:

Respondent contends that the subject property was correctly valued using all three approaches to value.

## FINDINGS OF FACT:

1. The Board granted a joint motion to consolidate Docket Nos. 39583 and 39584.

2. Petitioner's witness, Mr. Michael J. Costa, Senior Vice President of First American Tax Valuation, presented the following indicators of value:

| | |
|---|---|
| Market: | $3,400,000.00 |
| Income: | $3,100,000.00 |

3. Petitioner's witness did not present a cost approach for the subject property. Mr. Costa testified that making estimates of physical depreciation, functional and economic obsolescence is difficult due to the subject's age.

4. Mr. Costa testified the subject property changed its franchise affiliation from a Holiday Inn to a Ramada Inn in December, 1999. The Holiday Inn is considered a superior franchise, or higher flag, and its loss has a strong bearing on the value. Mr. Costa testified that the subject property's ownership tried to attract other franchisers but were unsuccessful due to the subject's age, exterior corridor configuration and physical condition. The decision to move forward with the Ramada Inn franchise was made knowing occupancy and average daily room rates would be negatively affected based on national averages of each franchise, as shown on page 2 of Petitioner's Exhibit 2. In addition, Mr. Costa testified to a published report by the Denver Office of HVS International Journal, September 2000, which shows an array of new hotels that came on board in the summer of 2000 and are located approximately 5 miles south of the subject property off Highway 36. These hotels, Mr. Costa testified, have effectively caused a vacuum effect drawing business off before it gets to the City of Boulder, resulting in declining occupancy for the subject of 59.28% in 1999 to 51.8% in 2000.

5. Based on the market approach, Petitioner's witness presented and indicated value of $3,400,000.00 for the subject property.

6. Mr. Costa referred to sales as reported by TransActions by the Hotel and Motel Brokers of America (HMBA) on page 8a, Petitioner's Exhibit #2. He testified to seven comparable Colorado sales ranging in sales price from $12,245.00 to $28,977.00 per room and in size from 67 to 303 rooms. Mr. Costa testified to the following sales by brand which occurred nationally during 1999 and 2000: 49 Best Western, 37 Holiday Inn, 18 Quality Inn and 24 Ramada Inn transactions. The average sales price ranged from $21,293.00 to $43,722.00 per room and average size from 96 to 199 rooms, noting that in 2000 Holiday Inn sales price per room of $43,722.00 was twice that of Ramada Inn sales price per room of $21,293.00. No adjustments were made to the sales.

7. Using the sales in Colorado, Mr. Costa testified the average sales price per room was $21,147.00 and the weighted average price per room was $20,042.00. The average size was 135 rooms and the average year built was 1974. Based on the average and weighted average of these sales, the indicated selling price per room is $20,500.00. Mr. Costa testified that the sales prices included furniture, fixtures and equipment (FF&E) and business value and no adjustment was made for these components. The indicated overall market value for a going concern is $3,382.500.00 Based on a transaction by brand in the years 1999 and 2000, the sales price per room ranged from $21,300.00 to $26,250.00. The indicated overall range of the market value for the going concern is $3,514,500.00 to $4,331,250.00.

8. Petitioner's witness presented an income approach to derive a value of $3,100,000.00 for the subject property.

9. Mr. Costa testified that the income approach is the preferred technique used for appraising income-producing properties. The typical income percentage for a full service property's room revenue, he testified, should be approximately 66% of gross income as reported by Trends Publication. The subject property's income from room rentals was approximately 81%. Mr. Costa testified this was mainly due to a decline in revenue in food and beverage, which fell short of full service expectations because of an ample supply of eateries in the Boulder area. He used the July 1999 to June 2000 actual income and expense information of the subject property to calculate value.

10. Mr. Costa referred to the three-year history (Revenue/Ratios) spreadsheet in Petitioner's Exhibit 2, pages 9a and b, testifying to the decline in occupancy, room revenue, food and beverage and gross income for the 24 months beginning December 31, 1998 to December 31, 2000. The on average loss per month is between 1% and 1.25%.

11. Mr. Costa testified the cost approach has little use in the analysis except for considering highest and best use. Mr. Costa testified that the subject property was built in 1963, followed by two other phases in 1973 and 1983, which was reason enough not to attempt an estimation of physical depreciation. Functional obsolescence is due to the lack of desirability in layout, style and design. External obsolescence, he testified, is caused from outside the property itself such as the competition of the recently constructed hotels in the area.

12. Under cross-examination, Mr. Costa testified the most appropriate method to value the subject property is through the income approach and the condition of the subject property is directly reflected in the income of the property. Mr. Costa testified the subject property was renovated during the base period but the loss of the Holiday Inn franchise and the

addition of the Ramada Inn franchise decreased income and not the loss of available rooms due to renovation. Mr. Costa testified other franchises turned down the Petitioner because of the subject's age, condition and exterior entries.

13. Under cross-examination, Mr. Costa testified that he used the sale of a Super 8 Motel in Aurora, Colorado rather than the Super 8 Motel sale in Boulder, Colorado since he relied on the Hotel and Motel Brokers of America (HMBA) database, which did not include this sale. He admitted the Comfort Inn sale in Denver, may have been at the former Stapleton Airport area and the Holiday Inn was also located in Denver. Mr. Costa testified he did not investigate or research sales but they were presented as a "litmus" test to bracket value and he did not place weight on this approach.

14. Under cross-examination, Mr. Costa admitted he did not investigate local land values or talk to appraisers but did testify location was important. Mr. Costa did not do a highest and best use analysis but testified it would probably be to scrape off the existing improvements and build new.

15. Under cross-examination, Mr. Costa testified to the income and expense tables on pages 9a and 9b of Petitioner's Exhibit #2, noting reserves for replacements were between 6% and 8% which is supported by the International Association for Assessing Officers (IAAO). Mr. Costa presented actual income statements from the base period and testified that 1 year of data does not make the market, but revenue has been going down as shown in the three year history previously testified to. Mr. Costa did not analyse the Income and Expense of the local market and does not know if they are in line.

16. Upon questioning from the Board, Mr. Costa testified income on page 11a, Petitioner's Exhibit #2 were actuals, but figures for the period June 1999 to June 2000 were rounded. Mr. Costa testified the subject lost its Holiday Inn affiliation at the end of 1999, which greatly affected room revenue, in part due to guests receiving greater rewards from Holiday Inn. He testified the capitalization rate of 14.18% was calculated using HMBA and supported by the Stephen Rushmore Publication and this coincides with the capitalization rate used by the Respondent.

17. In redirect examination, Mr. Costa testified the capitalization rate is the same used by the Respondent; personal property amounts for the years 1998 to 2000 were from personal property tax bills as shown in Petitioner's Exhibit #3, Tab "B". He again testified the impact of losing the Holiday Inn franchise had a dramatic negative effect on occupancy and revenue.

18. Petitioner's witness, Mr. Leonard Kahn, Chief Executive Officer of Urban Capital Corporation, and principal of Boulder Hotel Associates testified the subject property was built in stages; 1963, 1973 and 1983 and gave an effective age of 27.5 based on a weighted average. Mr. Kahn testified renovation began in February 1999 and no more than 20 rooms were taken out of service at any one time; the effect on income was minimal.

19. Mr. Kahn testified that in order to make a minimal profit, occupancy should be between 60% and 70% and for the base period occupancy has been between 50% and 59%. The fact that 50% of the hotel has exterior corridors to rooms is a negative. Mr. Kahn testified the rooms are substandard and the north building is marginal in size. Only the newest 58 guest

rooms are of a size which are competitive with current mid-tier hotels. The four meeting rooms have a dysfunctional layout and are used as training rooms, typically for continuing education, and do not generate room stays.

20. Mr. Kahn testified the Respondent ignored the actual income and expenses and has overstated gross and net incomes by using the Hospitality Operating Statistics (HOST) data instead. Mr. Kahn testified the Uniform Franchise Offering Circular, excerpts of which are in Petitioner's Exhibit #1, page 7, clearly show a difference in occupancy and rates between the Holiday Inn and Ramada Inn and the loss of the Holiday Inn franchise has had a negative impact on income.

21. In cross-examination Mr. Kahn testified to the improvements made to the subject property and said 60% of the guest rooms have been renovated with new carpet, bathroom and fixtures and some cosmetic repairs done to the lobby. He testified they do not carry a reserve for replacement, so those figures are the actual capitol expendures as shown on the operating statement in Petitioner's Exhibit #2, page 11a.

22. Upon questions from the Board, Mr. Kahn testified that approximately 60% loss of business was due to the loss of the Holiday Inn franchise and about 40% was due to competition. Approximately 50% of their business was the business traveler, which is now down to approximately 15% of their business due to the superior reservation system of the Holiday Inn Association; perks dictate the stay.

23. Petitioner is requesting a 2001 actual value of $3,100,000.00 for the subject property.

24. Respondent's witness, Mr. B. Allen Day, a Certified General Appraiser with the Boulder County Assessor's Office, presented the following indicators of value:

| | |
|---|---|
| Market: | $6,270,000.00 |
| Cost: | $7,634,694.00 |
| Income: | $5,348,900.00 |

25. Mr. Day testified he inspected the property, prepared the appraisal and considered all three approaches to value. Mr. Day described the property as being comprised of two buildings totaling 89,127 square feet. It is of brick construction and average quality. Amenities include an indoor heated swimming pool, lounge and restaurant, meeting rooms, fitness room and laundry facilities. The estimate of effective age, due to remodeling, was 9 years. He described the location as being directly across Highway 36 from the University of Colorado on a service road shared with three other motels; a tunnel located at Aurora Avenue goes under the highway and allows access to the subject.

26. Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of $7,634,694.00.

27. Mr. Day testified he used three comparable land sales to set the land value. He described the sales, testifying that Comparable Sale 1 is located approximately 2 miles northeast of the subject and was adjusted upward for inferior location and zoning. Comparable Sale 2 is

located approximately 2 miles northeast of the subject and was adjusted upward for inferior location and zoning but was adjusted downward for size difference. Comparable Sale 3 is located 1 mile east of the subject and was given a downward adjustment for size; no adjustment was made for zoning since it allows a similar use. All sales were given a time adjustment as mandated by Colorado Statues. He used $18.00 per square foot for the subject property land value. Depreciation was based on a life of 40 years, effective age of 9 and a 5% functional obsolescence due to limited updating in the rooms.

28. Based on the market approach, Respondent's witness presented an indicated value of $5,348,900.00 for the subject property.

29. Respondent's witness presented three comparable sales ranging in sales price from $1,950,000.00 to $14,890,000.00 and in size from 21,632 to 78,374 square feet with total rooms from 46 to 112 with an indicated room value of $38,000.00. After adjustments were made, the sales ranged from $1,514,241.00 to $6,810,870.00.

30. Mr. Day testified Comparable Sale 1 is a 71-unit, two stories limited service Super 8 Motel located one block north of the subject; location and updating were considered similar to the subject property. Comparable Sale 2 is a 46-unit limited service motel about one mile north of the subject, but has similar access and was an independent operation at the time of sale. Comparable Sale 3 is a 112-unit, three story limited service hotel located about 1.5 miles from the subject with similar access; this hotel is affiliated with Homewood Suites by Hilton.

31. Mr. Day testified all sales were limited service and he did not adjust for age. Personal property was removed based on amounts reported by the property owners. The market approach, Mr. Day testified, presents a range of sales prices per room and provides an additional check on the value produced by the income approach.

32. Based on the income approach, Respondent’s witness presented an indicated value of $5,348,900.00 for the subject property.

33. Mr. Day testified 17 hotels and motels provided income information from the Boulder area. Four full service hotels reported income, after expenses and before fixed charges, ranging from 24.06% to 37.48%, not including reserves for replacement. The average expense ratio was 72.05%. Mr. Day testified this coincided with 72% as reported in the Host study (Respondent’s Exhibit #3) for the mountain region. The Trends Report (Respondent’s Exhibit 4) supports these figures, although it does not specifically identify reserves for replacement. He testified income and expense statements provided by the property owner showed expenses totaling 91.77% of income, which is well over the average and medium of the local market. Placing most weight on the local market and HOST study, Mr. Day testified he did three income calculations placing most weight on the second income calculation (Respondent’s Exhibit #1, page 26), which is from an 18-month collection period of January 1, 1999 through June 30, 2000, using the return on Personal Property figure from county tax records and 1.7% reserves for replacement from the HOST study which, he testified was reliable.

34. Mr. Day gave no reliance to the Cost or Sales approach and placed most weight on the income approach.

35. Under cross-examination, Mr. Day testified effective age is estimated on opinions from several people in his office. Time trending was formulated by tracking sales and the average increase was 1.1% to 1.2% per month. Mr. Day admitted he did not know what the rate of inflation was during the data period. Mr. Day testified that all land sales used in Respondent's Exhibit #1, page 13, were vacant and there were no improvements. He gave no weight to the cost or market approach to value.

36. Respondent assigned an actual value of $6,556,700.00 and is recommending a reduction in value to $5,348,900.00 for the subject property for tax year 2001.

## CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2001.

2. The Board agrees with both parties that the cost approach would not be a reliable indicator of value due to the age, condition, additions and remodels.

3. The Board places little weight on Petitioner's market approach. The Petitioner presented seven sales, none of which were located in Boulder. There were no adjustments made for location, business allocation, personal property or other physical characteristics. However, the Board agrees with the Petitioner that the sales presented could be used as a test of reasonableness.

4. The Board agrees with the Respondent that sales of limited service hotels would be improper to use, due to differences in income and expenses, and places little weight on this approach. None of the sales were full service hotels. The first two are much smaller in size and number of rooms and do not compare to the subject. Comparable sale #3 is newer than the subject but is far superior in condition and physical characteristics than the subject.

5. The Board agrees with both parties that the income approach to determine value is most appropriate.

6. Based on evidence and testimony presented, the Board was most persuaded by the Petitioner that there were three major reasons for the decline in value. The loss of the Holiday Inn franchise and the addition of the Ramada Inn franchise resulted in lower room rates and income. Externally, increased competition in the area from newer hotels contributed to a decline in occupancy. Finally, age, condition and physical layout supports a functional obsolescence. The Board agrees with the Petitioner that all of these are reflected in the rate per room and occupancy rate.

7. The Board finds Petitioner's 9-year estimate of effective age unreasonably low based on the extent of remodeling which has taken place. Neither is the Board convinced that the Respondent's effective age of 27.5 years is reasonable, since this is merely an average of the three stages in which the subject was built.

8. The Board reviewed Respondent's income calculations but is not persuaded the calculations for expenses should be based only on local or national averages, since these do not accurately reflect the deficiencies of the subject or the loss of the Holiday Inn franchise.

9. The Board concurs with the Petitioner that room rates and occupancy have decreased. The Board also agrees that age, condition, functional utility and the loss of the Holiday Inn franchise has had an adverse affect on income resulting in some higher expenses. The Board is concerned, however, with the atypical expenses, which exceed reasonable market trends.

10. The Board carefully reviewed both Petitioner's and Respondent's income and expenses for the subject property as well as the HOST Study. The Board used actual income for the data collection period as shown by the Respondent in its second calculation of the income approach but will allow for reserves for replacement of 6% and an additional amount for advertising due to the change of franchise.

11. After careful consideration of all the evidence and testimony The Board concludes that the 2001 actual value of the subject property should be reduced to $4,500,000.00.

## ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to $4,500,000.00.

The Boulder County Assessor is directed to change her records accordingly.

## APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

**DATED and MAILED** this 3rd day of July, 2002.

**BOARD OF ASSESSMENT APPEALS**

Debra A. Baumbach

Debra A. Baumbach

Steffen A. Brown

This decision was put on the record

JUL 03 2002.

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

Penny S. Bunnell

Penny S. Bunnell

STATE OF COLORADO
SEAL
BOARD OF ASSESSMENT APPEALS

39583&84.02.doc