

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 48682 &
51007**

Petitioner:

TANA OIL & GAS LLC,

v.

Respondent:

**BROOMFIELD COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 20, 2009, MaryKay Kelley and Sondra W. Mercier presiding. Petitioner was represented by Thomas E. Downey, Jr., Esq. Respondent was represented by Tami Yellico, Esq. Petitioner is protesting the 2007 and 2008 actual value of the subject property under consolidated Docket Numbers 48682 and 51007.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**500 Interlocken Parkway, Broomfield, Colorado
(Broomfield County Schedule No. R1120489)**

The subject is a 390-room hotel located on 18.3 acres. The subject includes numerous meeting rooms, a health club, restaurants, swimming pool, and outdoor pavilion. It is adjacent to a 27-hole golf course that is not part of this appeal.

Petitioner presented the following indicators of value:

Cost:	N/A
Market:	N/A
Income:	\$31,774,000.00

Petitioner did not present a cost approach.

Based on the market approach, Petitioner presented five comparable sales ranging in sales price from \$10,600,000.00 to \$39,509,600.00 and in size from 154 to 232 rooms. The sales indicated a price range of \$62,352.94 to \$191,082.80 per room. Petitioner did not conclude to a value using this approach.

Petitioner presented an income approach to derive a value of \$31,774,000.00 for the subject property. Income and expenses were based on the 12-month period ending June 30, 2006. Petitioner deducted replacement reserves of 5% and capitalized the net income at 12.33% based on an overall rate of 9.0% plus 3.33% effective tax rate. Petitioner deducted the estimated value of personal property to provide an indication of the value of the real estate only.

Petitioner is requesting an actual value of \$31,774,000.00 for the subject property for tax years 2007 and 2008.

Respondent presented the following indicators of value:

Cost:	\$39,043,090.00
Market:	\$41,000,000.00
Income:	\$39,000,000.00

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$39,043,090.00.

Based on the market approach, Respondent presented an indicated value of \$41,000,000.00. Respondent presented four comparable sales ranging in sales price from \$77,970.30 to \$122,222.22 per room and in size from 202 to 350 rooms. Respondent included one sale from the Denver metropolitan area and three sales from other states. After adjustments were made, the sales ranged from \$91,693.00 to \$121,440.00 per room. Respondent concluded to a value of \$41,000,000.00 for the subject.

Respondent used the income approach to derive a value of \$39,000,000.00 for the subject property. Respondent applied the same income and expense information as Petitioner, relying on actual data for the 12-month period ending June 30, 2006. Respondent deducted replacement reserves of 4% and applied a capitalization rate of 10.83% based on an overall rate of 7.5% and an estimated tax rate of 3.33%. Respondent deducted the same value for personal property as Petitioner to provide an indication of the value of the real estate only.

Respondent assigned an actual value of \$36,300,000.00 to the subject property for tax years 2007 and 2008.

The Board is convinced that the income approach provides the best indication of value for the subject, an income producing property. With the exception of the deduction for replacement reserves and the capitalization rate used, both parties used similar income and expense data in their analysis.

Petitioner applied four different methods, including reliance on six market surveys, to conclude to an overall rate of 9.0%. Respondent relied on the HVS Real Estate Investment Cap Rate Trend, concluding to an overall rate of 7.5%. The Board finds Petitioner’s overall rate analysis more thorough and convincing, concluding that a 9.0% rate is appropriate for the subject.

Both Petitioner and Respondent relied on the CapEx 2007 Survey, which includes data from 2000 to 2005, in their analysis of the deduction for reserves. Petitioner concluded to a rate of 5.0% based on a rate of 5.1% for full service/luxury hotels, 5.2% for hotels with average daily rates of \$110, and 5.2% for properties with over 300 rooms. Petitioner provided further support for the higher rate of 5% using the “Rushmore Approach” article, included in Exhibit A. Petitioner contends that the subject requires significant capital improvements that typically take place when properties are 6 or 7 years of age, supporting a higher rate for reserves. Respondent concluded to a rate of 4.0% based on a 3.8% rate for full service hotels and a 3.1% rate for suburban hotels. Respondent contends that many of the categories that include the subject represent properties with a significantly higher average age than the subject.

The Board is convinced that it was important to look at a broader number of categories for the subject as all reflect important aspects of the potential maintenance level, wear, and tear experienced by similar properties. The subject qualifies for inclusion in several categories described within the CapEx 2007 survey, shown in the following chart:

Category	Reserve Rate
Suburban	3.1%
Average Daily Rate over \$110	5.2%
Size over 300 rooms	5.2%
Age of Property 1990-2000	3.5%
Average	4.25%

Based on the categories shown, the Board concludes that the 4.25% average indicated by the CapEx 2007 survey provides a reasonable deduction for reserves. Applying this rate in Petitioner’s income approach results in an indicated value of \$33,104,000.00, rounded.

Petitioner presented sufficient probative evidence and testimony to prove that the valuation of the subject property for tax years 2007 and 2008 was incorrect.

The Board concludes that the 2007 and 2008 actual value of the subject property should be reduced to \$33,104,000.00.

ORDER:

Respondent is ordered to reduce the 2007 and 2008 actual value of the subject property to \$33,104,000.00.

The Broomfield County Assessor is directed to change his 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 CRS § 24-4-106(11) (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 CRS § 24-4-106(11) (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.

CRS § 39-8-108(2) (2008).

DATED and MAILED this 10th day of April 2009.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

APR 10 2009

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.

Heather Flannery
Heather Flannery

