

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ASPEN SKIING COMPANY, LLC</p> <p>v.</p> <p>Respondent:</p> <p>PITKIN COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58254</p>
<p>AMENDED ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 11, 2012, James R. Meurer and MaryKay Kelley presiding. Petitioner was represented by F. Brittin Clayton, Esq. Respondent was represented by Michelle B. Whisler Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**675 East Durant Avenue, Aspen, Colorado
Pitkin County Schedule No. R012297**

The subject property is the Little Nell Hotel, a luxury ski in/ski out hotel at the base of Aspen Mountain within walking distance of downtown. One of two five-diamond hotels in Colorado, it consists of 92 rooms, retail and restaurants, fitness center and spa, and underground parking. Built in 1990 and updated over the years, a major renovation occurred in 2009, which closed the hotel for September, October and November.

Respondent assigned a value of \$56,556,000 for tax year 2011. Petitioner is requesting an actual value of \$37,700,000.

Petitioner presented an income approach to derive a value of \$37,669,094. Petitioner's witness, Jodi Sullivan, Director of Duff and Phelps Property Tax Advisory Group, used actual income and expense data for fiscal years 2007/2008, 2008/2009, and 2009/2010 (June 1 through May 31). To address the three-month closure in 2009, she inserted revenues and expenses from the same three months in 2008, thereby normalizing the fiscal year ending May 31, 2010. She estimated

replacement reserves at 4%, applied a capitalization rate of 8.50% plus a 0.77% effective tax rate, and deducted personal property.

Ms. Sullivan's capitalization rate analysis originated with the Board of Assessment Appeal's decision for the 2009 tax year appeal of the subject property, which concluded to a capitalization rate of 7.0%. To that she applied 125 basis points derived from an analysis of investor surveys indicating an average rate of 9.47%. She also weighed the sale of the Limelight Hotel with a rate of 8.70% based on first year income projections. She concluded to a capitalization rate of 8.50%.

Respondent presented the following indicators of value:

Income:	\$70,436,743
Market:	\$57,125,000

Respondent presented an income approach to derive a value of \$70,436,743. Respondent's witness, Lawrence Fite, Chief Appraiser for Pitkin County's Assessor's Office, used actual income and expense data for fiscal years 2006/2007, 2007/2008 and 2008/2009 (June 1 through May 31); due to the three-month closure, he considered data for fiscal tax year 2009/2010 to be incomplete and unreliable. He averaged revenues and expenses for a stabilized net operating income and applied replacement reserves of 4.0%, a capitalization rate of 6.5% plus a 0.77% effective tax rate, and he deducted personal property.

Mr. Fite's capitalization rate range from 6.5% to 7.0% was based on the Korpacz Real Estate Investment Survey (third quarter 2010), which reported a range from 6% to 13%, and two Aspen sales with rates of 4.0% and 4.6%. He equated the renovation to an extended economic life and gave considerable weight to Aspen's shortage of developable land, difficult land use approval process, limited competition, and historically lower rates compared to nationally published rates.

Respondent presented a market approach to derive a value of \$57,125,000. Mr. Fite presented four hotel comparable sales, giving most weight to Aspen's Hotel Jerome and the Limelight and concluding to a value per room of \$700,000.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2011.

The Board finds that both analyses of net operating incomes are persuasive; Petitioner's income for fiscal years 2007/2008 and 2008/2009 and normalized income for fiscal year 2009/2010; and Respondent's income for fiscal years 2006/2007, 2007/2008, and 2008/2009. The average of the two net operating incomes is \$4,908,966 (Petitioner at \$4,168,317 and Respondent at \$5,649,615).

In determining a capitalization rate, the Board has greater confidence in an independent analysis than Petitioner's methodologies. Respondent's range reflects the characteristics of the subject's luxury hotel and the nature of the Aspen market. While cognizant of the negative impact of economic factors and the seasonal nature of the business, the Board gives considerable weight to the subject's renovation and its impact on the economic life of the subject. A total rate of 7.0%

including tax load is considered supportable, which concludes to an indicated value of \$70,128,086 or \$62,853,486 minus personal property.

ORDER:

The petition is denied.

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).

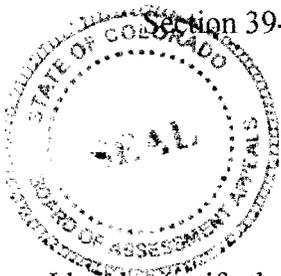
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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-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.

Section 39-8-108(2), C.R.S.

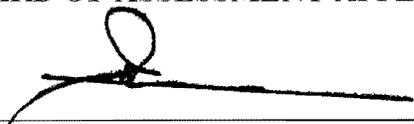
DATED and MAILED this 17th day of July, 2012.

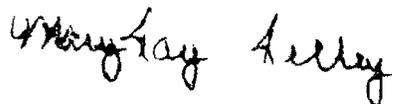


I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.


Milla Crichton

BOARD OF ASSESSMENT APPEALS


James R. Meurer


MaryKay Kelley