BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **VAIL CORPORATION,** v. Respondent: **EAGLE COUNTY BOARD OF EQUALIZATION**	**Docket No.: 62668**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 16, 2014, Diane M. DeVries and Brooke B. Leer presiding. Petitioner was represented by Mark T. Barnes, 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:

> **141 Scott Hill Road #1, Beaver Creek, CO**
> **Eagle County Schedule No. R029991**

The subject property is the Pines Lodge; it is part of a four story resort that was built in 1991 and partially renovated in 2005. It is located in the base area of the Beaver Creek ski area. It is one of 13 condominium units. The entire fourth floor is 12 privately owned penthouse units that are not part of this appeal. The subject property contains 48,592 heated square feet with a canopy area and 46 underground parking spaces. The subject includes three floors of guest rooms (total 60 rooms), public areas, a restaurant (Grouse Mountain Grill, leased to a 3rd party), fitness center and a ski shop. The guests of the subject hotel units have access to an outdoor pool and hot tub but these two amenities are not part of this appeal. The subject is a condominium unit with no specific land allocation.

The subject is owned by Vail Corporation and is operated by RockResorts which is a subsidiary of Vail Resorts. The Pines Lodge is part of the Pines Penthouse Condo Association. The Pines Lodge manages a rental program for condos within the condo association. Some revenue items from the condo rentals are included in the hotel financials and all expenses associated with the management of the condos are included in the hotel financials provided by

Vail Corp. Mr. Josh Davis, Regional Manager of Finance for Vail Corp., Beaver Creek and Vail, testified and helped in the allocating of the revenue and expenses associated with the condo/townhome units so a net operating income attributable to the Pines Lodge only could be estimated for purposes of this valuation.

The subject hotel was built as a good-to-excellent construction quality project and is considered to be in a good- to-excellent condition with no physical or functional obsolescence. Petitioner described the Pines Lodge as having luxurious guest rooms nestled in the pines and being a home to the award winning Grouse Mountain restaurant. The finishes and amenities are up to the RockResorts standards. The personal property is not part of this valuation and the owner's value of the personal property at $238,130 has been accepted by Eagle County. The value concern at the hearing was for the real estate only.

Petitioner is requesting an actual value of the subject property, as of June 30, 2012, of $5,000,000. Ms. Jodi Sullivan, MAI of Duff & Phelps LLC, prepared a valuation analysis of the Pines Lodge. Her analysis was based on actual income and expenses attributable to the subject hotel reported in the Vail Corp financials. She was helped by Mr. Davis in abstracting out the income and expenses attributable to the hotel only. Smith Travel Research data was used as a benchmark to compare to the actual financials for reasonableness and to estimate fees and reserves. Other investor surveys and sales data was used to estimate an overall capitalization rate.

Ms. Sullivan included four sales in her report, however she did not apply a sales comparison approach because large adjustments were necessary to account for the differences in the income streams and investor's expectations for the future going concern of the property. Ms. Sullivan used two of the sales in Aspen to abstract overall rates from to apply to her projected net operating income. Ms. Sullivan looked at the trends of occupancy and average daily room rates at the subject and in the Vail market. The Pines Lodge experienced a reduction in revenue in 2008 which continued into 2010. The room rates and occupancy started to increase in 2011 and into 2012. Several new hotel rooms have been added to the Vail market which Ms. Sullivan concluded had a slowing effect on the Pines Lodge recovery despite its location in Beaver Creek. Ms. Sullivan concluded to a projected average daily rate (ADR) of $192.00 and occupancy of 52% for the subject as of June 30, 2012.

Two expense categories that differ the most between Petitioner's and Respondent's reports, are Department Expenses and Undistributed Operating Expenses. Because the managers of the subject hotel also manage the privately owned condos and townhomes, the subject's financial statements have combined cleaning expenses for the hotel rooms and condos. Therefore, the cleaning expenses associated with the hotel only needed to be extracted. Ms. Sullivan separated out the expenses but stated that with the hotel's relatively small size, at 60 rooms, much of the room expense was fixed with certain base level staffing and the cleaning expense is high on a per room bases. The other areas that she concluded were high and related to the small size of the hotel were the General, Administrative and Marketing expenses. Estimates based on industry ratios were applied for Management and Reserves. Ms. Sullivan's normalized NOI for June 30, 2012 is $511,000, rounded.

Ms. Sullivan did not prepare an independent appraisal report but presented a valuation analysis. She did not testify as an appraiser but as a property tax consultant. She was somewhat unfamiliar with some of the expense categories and relied significantly on Mr. Davis's expertise and preparation of the financials for the subject with which he was familiar.

Respondent's main witness was Mr. William Hopping, MAI, who specializes in appraising hotel properties. He provided an independent appraisal of the subject property and used both the Sales Comparison and Income Capitalization Approaches with the primary emphasis on the Income Approach. An appraiser with Eagle County, Mr. Ryan Kane, assisted Mr. Hopping in the preparation of the report. Mr. Kane also testified at the hearing. Mr. Hopping's report is in conformity with USPAP. Respondent is requesting an actual value of $10,800,000 for the subject property for the 2013 tax year based on Mr. Hopping's appraisal.

Mr. Hopping included four sales of improved properties. The sales were adjusted for Revenue Per Available Room (RevPAR) in comparison to the subject. The adjusted sales ranged from $166,000 per room for the Snake River Lodge and Spa in Wyoming to $232,000 for the JW Marriott in Cherry Creek. He concluded to a per room value for the subject of $190,048 or $11,400,000 for all 60 rooms, rounded. The conclusion by the room revenue multiplier method was $9,500,000, rounded. The witness concluded to the subject's 2013 value of $10,000,000 by the Sales Comparison Approach. This value includes the personal property. The sales were used primarily to abstract capitalization rates which ranged from 3.9% for the Snake River Lodge to 6.4% for the Marriott. Mr. Hopping testified that there had been few hotel sales over the past several years and even fewer good comparables to the subject.

Mr. Hopping identified several hotels to compare to the subject to estimate market room rates, occupancy and penetration. Other hotels were identified for use in a custom Host report to estimate expenses. Mr. Hopping was sensitive to the smaller size of the subject at 60 rooms when identifying expense comparables for the Host report. Properties used in the Host report were: Park Hyatt Beaver Creek, Westin Riverfront in Avon, Beaver Creek Lodge, The Osprey at Beaver Creek and the Tivoli Lodge in Vail. Mr. Hopping concluded to a projected ADR for the subject of $200.00 and occupancy of 51%. These projections are similar to Ms. Sullivan's conclusions. Mr. Hopping compared each expense category from the market data and Host report to historical expense data. Mr. Hopping concluded to a NOI of $747,000.

The Board found valid arguments from both parties. Petitioner put the most weight on the actual income and expense data that required adjustment for the rental pool unit expenses. Petitioner rationalized that the expenses were on the high side because of the smaller size of the hotel and that the hotel still required a certain level of staffing and room expenses which are higher than the industry standards.

Respondent's expert relied more on market data to estimate the expenses; suggesting that a buyer for the subject would focus on the cost of the hotel operation exclusive of the other units in the condominium project. It is difficult to separate the properties. The hotel does not function on its own and it may be that the expenses will just be higher because it is a combined use property and of a smaller size. It does not currently function as a stand-alone property and if offered for sale, the expense categories may just be higher than desired, primarily because of the hotel's smaller size. Mr. Hopping's NOI is 46% greater than what Petitioner's expert concluded to. The Board was not comfortable with the significant difference in NOI and gave weight to both Petitioner's and Respondent's Department and Undistributed Operating Expenses. The Board applied the revenue projections at Respondent's levels which are similar to Petitioner's levels and expenses were applied at a level giving consideration and weight to both parties' analyses.

The Board was not convinced from the testimony or the evidence provided that either party applied an appropriate capitalization rate. Petitioner referenced two sales that rates were derived from, the Limelight and St. Regis in Aspen. The confirmation data was not sufficient to abstract a rate with a high level of confidence. The Board was persuaded that the Aspen market is different than Vail or Beaver Creek as to clientele and the competition of rooms. The Board was more comfortable in applying data from the investor reports which is a good overall indicator of what rates buyers and sellers in the Colorado market expect in the luxury resort hotel market. The Board found that the overall capitalization rate data from the lower end of the reports is representative of the improving Vail/Beaver Creek market and the prestige that high end properties carry in these mountain areas with year round use is improving. The lower end of data from Ms. Sullivan's market reports suggestes a capitalization rate of 6.0% is applicable. Mr. Hopping had five resources he referenced and the lower end of that data ranged from 5.0% to 6.1%. From the data presented, the Board concluded that a 6.0% rate is appropriate to apply to the projected net operating income applied below.

	Sullivan	**Hopping**	**Apply**
	(000)	(000)	
ADR	$192	$200	
OCC	52%	60%	
Rev Par	$100	$102	
Total Revenue	$2,709	$2,732	$2,732
Department Expenses	$818	$764	$800
Undistributed Operating Expenses	$1,164	$990	$1,100
Fees	$94	$107	$100
Income Before Fixed Expenses	$633	$871	$732
Insurance	$14	$15	$15
Reserves	$108	$109	$109
Total Expenses	$2,198	$1,985	$2,124
NOI	$511	$747	$608
Capitalization Rate	8.00%	4.50%	6.00%

Tax rate	1.75%	1.75%	1.75%
Total rate	9.75%	6.25%	7.75%
Value, in thousands	$5,241	$11,952	$7,845

The value conclusion is estimated from the applied inputs at $7,845,000. This includes personal property of $238,130. Estimated value of the Pines Lodge in Beaver Creek, real estate only, as of June 30, 2012, is $7,606,870 or $7,607,000, rounded.

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

The Board concludes that the 2013 actual value of the subject property should be reduced to $7,607,000.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to $7,607,000.

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 28th day of May, 2014.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Brooke B. Leer

SEAL

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

Milla Lishchuk

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