

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CHRISTIANIA, LTD,</p> <p>v.</p> <p>Respondent:</p> <p>EAGLE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 70430</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 29, 2018, Debra A. Baumbach and Louesa Maricle presiding. Petitioner was represented by F. Brittin Clayton III, Esq. Respondent was represented by Christina Hooper, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Petitioner’s Exhibits admitted for the hearing included 1, 2, 3, 5, 7, 9, 10, 12, and 15. Respondent’s Exhibits admitted included A, B, C, D, E, I, and O.

Subject property is described as follows:

**356 Hanson Ranch Road, Vail, Colorado
Eagle County Account No. R039995**

The subject property is a 22-unit hotel known as Christiania at Vail Lodge. It was constructed in 1963 and is in Vail Village about 300 feet from Vail Ski Resort’s main lift, Gondola One. The subject property is a legal condominium unit within a building that also includes two separately owned penthouse condominiums that are not part of this case. Christiania, LTD owns the hotel and is a subsidiary of Christiania, Inc., which is responsible for the management of the subject property and approximately 44 condominium units in the Vail Valley.

Petitioner is requesting an actual value of \$2,829,000 for the subject property for tax year 2017. Respondent assigned a value of \$6,687,420 for the subject property for tax year 2017.

Petitioner presented an income approach to derive a value of \$2,829,000 for the subject property.

Petitioner presented Stephanie Moore as witness. Ms. Moore is employed by Destination Hotels and Resorts, a hotel property management company, which was hired by Christiania, Inc. in 2015 to manage the subject property as well as separately owned condominium units. The witness testified the subject property has been maintained, but it was last remodeled in the 1980s. All hotel room and condominium rental operations are intertwined. The witness testified the subject hotel and Christiania, Inc. financials are reported as a combined Christiania, Inc. operating statement. The management agreement treats the hotel and condominium operation as one and all operating expenses apply to the combined property. The witness and a representative of Petitioner collaborated on the "actual" operating statement history presented in Petitioner's exhibits and provided to Respondent. The witness testified the hotel revenue reported is the actual revenue received for the subject property, but the operating expenses were allocated or estimated based on "what it would take" to operate the hotel independently.

Petitioner presented Jodi Sullivan as witness. Ms. Sullivan is employed by Duff & Phelps, LLC, Petitioner's tax agent, and is Director of the property tax group. The witness testified she prepared the valuation analysis report presented for the subject property. The subject is an older hotel in need of renovation. The witness considered the cost and sales comparison approaches to value but concluded those approaches would not produce reliable indications of value for the subject, so used the income capitalization approach. The witness testified she relied on the June 2016 trailing 12-month actual operating statement provided by management, making adjustments she deemed appropriate to some figures to represent the income stream if the property had been under the current management for the entire 12-month period. To capitalize the adjusted net operating income into value, the witness considered rate indications published by multiple national investor surveys, and calculated rates for two sales in the Vail market that occurred during the base period. The witness concluded to an indicated value for the property of \$2,829,000.

Respondent presented an income approach to value with support from sales comparison approach data to derive a value of \$6,201,856 for the subject property.

Respondent presented Ryan T. Kane as witness. Mr. Kane is a licensed Certified General Appraiser in Colorado and is employed as an appraiser by the Eagle County Assessor's office. The witness testified he prepared the appraisal report presented at the hearing for the subject property.

The witness presented an income approach to value. Mr. Kane testified that in preparing his analysis, he found inconsistencies and some mathematical errors in the financial history Petitioner provided to the county. The witness concluded that the operating information was not completely reliable. The witness testified he used the actual revenue reported for calendar year 2016 for his analysis and estimated typical operating expenses for a resort hotel based on factors in a nationally recognized hotel property survey. For the capitalization rate, the witness testified he consulted national investor surveys and the range of rates presented in a hotel capitalization rate study prepared for Eagle County by Korpacz Realty Advisors, Inc. for the 2017 base period. The witness also calculated rates for the two sales in the Vail market that were used by Respondent's witness, Ms.

Sullivan. Mr. Kane testified his rate for the Cascade Club sale matched the rate presented by Ms. Sullivan. However, he disputed the rate presented by Ms. Sullivan for the Holiday Inn Vail sale, saying the appropriate way to analyze the sale was to disregard the renovation of that property that followed the sale. The witness concluded to an indicated value for the property of \$6,201,856.

The witness presented four Eagle County hotel sales. Most consideration was given to the Cascade Club and Holiday Inn Vail sales that occurred during the base period. The witness presented only limited analysis discussion of the sales and testified the sales comparison approach analysis was provided as support for the income approach value conclusion.

The witness testified he concluded to a final value for the property of \$6,201,860. Although this conclusion of value is lower than the assigned value of \$6,687,420, the witness testified that based on the hearing testimony presented by Petitioner's witness, Ms. Moore, regarding the derivation of the financial operating history provided, he no longer considered those figures to represent the actual operating history for the subject property. He concluded that information adversely affected the reliability of his appraisal analysis and did not recommend that his appraisal value be adopted.

Respondent assigned an actual value of \$6,687,420 to the subject property for tax year 2017 and requested the Board affirm that value.

Sufficient probative evidence and testimony was presented to prove that the tax year 2017 valuation of the subject property was incorrect.

Section 39-1-104, C.R.S. requires that a base year system be established to assign values to property. Under that method, the value of property is based upon a specified base period which value is then used in calculating the property's assessed value each year until a new base period is established. *Carrara Place, Ltd. v. Arapahoe County Board of Equalization*, 761 P.2d 197 (Colo.1988).

Per Section 39-1-103(5), C.R.S., base year period is the one-and-one-half-year period immediately prior to July 1 immediately preceding the assessment date (the base period). *See e.g.*, Section 39-1-104(10.2)(d), C.R.S.; *Padre Resort v. Jefferson Bd. of Equal.*, 30 P.3d 813 (Colo. App. 2001).

Thus, the base period for the 2017 assessment is the 18-month period from January 1, 2015 through June 30, 2016, except that, if comparable valuation data is not available from such one-and-one-half year period to adequately determine the value of a class of property, the period of five years immediately prior to July 1, 2016, shall be utilized to determine the level of value for assessments for 2017. *See* Section 39-1-104(10.1)(b), C.R.S.

Respondent argued the credibility of Petitioner's valuation witness was impacted because her company, Duff & Phelps LLC, was paid on a contingent fee basis. The Board finds that Petitioner's contingent fee arrangement with its expert was clearly disclosed to the Board. Considering the nature of Duff & Phelps' compensation, the Board regards Ms. Sullivan's valuation analysis as a consulting

service, not an independent appraisal. In analyzing this case, the Board weighs the evidence provided by the tax agent as we see fit considering the disclosed bias shown by the contingent fee arrangement.

The Board finds that Petitioner's "actual" operating history for the subject property in the evidence presented to Respondent and to the Board is not fact. Based on the testimony, the Board finds that the history is an estimate of the property's financial performance. The Board finds Petitioner did not provide the actual operating statement source documents to support the estimated financial performance history for the property, and that reliance solely on Ms. Moore's testimony that the allocations and estimates applied to the operating expenses presented are reasonable and correct is not sufficient support. The Board concludes the operating expense history carries no more weight than any other pro forma estimate would.

The Board finds that Ms. Sullivan reconstructed the estimated operating history provided and made adjustments to add a management fee and reserve for replacements, and to increase the marketing expense for the trailing 12-month estimate for the period ending June 30, 2016. The Board rejects the increases made to the reconstructed history as improper methodology because they are represented as actual performance figures and could mislead a user of the report. The Board also concludes the increase to the marketing expense for the trailing 12-month estimate for the period represented as actual figures is not justified. It applied a higher expense designed to increase room revenues to months that did not have the benefit of that additional marketing. Such an adjustment can be made to the witness's pro forma.

The Board finds the national investor surveys and surveys referencing Denver hotels are useful in a broad sense but do not provide rates specific to internationally known mountain resort markets such as Vail. Both parties agreed capitalization rates for the Vail market should be lower than rate indicators for the Denver market.

The Board finds that Ms. Sullivan's calculated 8.57% capitalization rate for the Holiday Inn Vail sale does not reflect the net operating income potential for the non-renovated condition of the property or the base purchase price paid. For that calculation, the witness added the estimated \$10 million cost of the buyer's planned renovation to the price paid and calculated a capitalization rate based on a projected future net operating income after completion of the renovation. Comparing a rate based on anticipated future income following a renovation is speculative and not a reasonable rate to consider in comparison to the estimated income generated in the base period for the non-renovated subject property. Although Ms. Sullivan did not rely solely on her estimated capitalization rate for this sale, she testified she did give it some weight in selecting the rate used for the subject property. The Board finds the testimony and other evidence presented by Respondent's witness credible that the Holiday Inn Vail capitalization rate calculated using the price paid for the property in its non-renovated condition was 4.86%. The Board finds the 5.98% capitalization rate for the Cascade Club sale was calculated based on its non-renovated condition. The Board finds the parties agreed the two Vail sale properties were both renovated following the sales. The Board concludes the inconsistent methodology used by the witness for these two sales is not supported. The Board concludes the methodology used by Petitioner's analyst resulted in a lower value that is not credible.

The Board finds Respondent's pro forma expense estimate and capitalization rate analysis used in his income approach analysis credible. However, the Board finds Mr. Kane used the actual revenue reported for the property for calendar year 2016, which includes six months of history beyond the data collection period. Because that is contrary to statute, the Board concludes the analysis must be recalculated using revenue within the data collection period. The Board finds there are mathematical errors in the operating statements provided to Respondent. For example, the total revenue figures shown on the statements by month are higher than the sum of the individual revenue line items. The Board notes this does not favor Petitioner. The Board has recalculated Respondent's net operating income for the property using our calculation of the trailing 12-month actual revenue reported for the period ending June 30, 2016 of \$1,262,583.71. Replacing the 2016 calendar year revenue figure with the trailing 12-month figure in Respondent's calculation results in a revised value for the subject property of \$5,214,356.

The Board concludes that the 2017 actual value of the subject property should be reduced to \$5,214,356.

ORDER:

Respondent is ordered to reduce the 2017 actual value of the subject property to \$5,214,356.

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 1st day of May, 2018.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Louesa Maricle

Louesa Maricle

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

Milla Lishchuk

Milla Lishchuk

