

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>WOOLLEY'S CLASSIC SUITES DENVER LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ADAMS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 72085</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 30, 2018, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by Barry K. Arrington, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The Board admitted Petitioner's Exhibits 1 and 2, as well as Respondent's Exhibits A1-Amended and B as evidence.

Subject property is described as follows:

**16450 East 40<sup>th</sup> Circle, Aurora, Colorado  
Adams County Schedule No. R0180004**

The subject is a 165,867-square foot, 191-room full service hotel completed in 2014. The facility includes a salt-water pool, exercise room, fitness center, conference rooms, courtyard dining area and lounge.

Petitioner is requesting an actual value of \$9,655,000 for the subject property for tax year 2017. Respondent assigned a value of \$14,852,500 for the subject property for tax year 2017.

Petitioner's witness, David G. Berger, Real Estate Consultant for RH Jacobson & Company, presented the cost and income approaches to support the requested value of \$9,655,000.

Respondent's witness, Deborah L. Myer, Certified General Appraiser with the Adams County Assessor's Office, completed the cost and income approaches to conclude to a value of \$30,942,900.

Neither party found the sales comparison approach to be reliable in the valuation of the subject.

The Board finds that Mr. Berger's agency and contingency fee arrangement was clearly disclosed at hearing. Taking into consideration the nature of Mr. Berger's compensation, the Board regards the Property Valuation Analysis as a consulting service, not as an independent appraisal. In analyzing this case, the Board weighs the evidence provided by Mr. Berger in light of the disclosed potential bias shown by the contingency fee arrangement.

A taxpayer's burden of proof in a BAA proceeding is well-established: a protesting taxpayer must prove that the assessor's valuation is incorrect by a preponderance of the evidence in a *de novo* BAA proceeding. *Reiber v. Park Cnty. Bd. Of Equal.*, 14CA6 (Colo. App. 2014).

Both parties cited the Division of Property Taxation Course 215 – Hotel/Motel Valuation as a reliable source for instructions in valuing the subject. Further, both produced the cost and income approaches to value the subject. However, the course material considers the cost approach to have limited application to lodging facilities, noting "sometimes a facility can suffer from functional and external obsolescence before its construction is finished." (Course 215, Section 2, Page 8).

Based on the financial operating statements for the subject, the Board was convinced that the cost was well in excess of value due to functional and economic obsolescence, resulting from over-improvement for the suburban location. Respondent gave inadequate adjustment to this obsolescence in the cost approach. Although Petitioner considered obsolescence, the Board found the magnitude of the adjustment was not adequately supported. Neither party produced a credible cost approach in their respective appraisals.

After consideration of all three approaches to value, the Board finds that the income approach provides the most reliable indication of value for the subject, which is a full-service hotel. The valuation process should reflect a market value, using market assumptions, including market rates, market expenses, and market occupancy. Hotels in the immediate area of the subject include Marriott, Marriott Residence Inn, Hyatt Place, Hilton Garden Inn, A Loft, Cambria, Hampton Inn & Suites, Hilton Homewood Suites, Courtyard by Marriott, and Marriott Townplace. The parties should have found sufficient data for the competitive market.

Petitioner's income approach was based on the actual operating history of the subject with insufficient consideration given to market data for competitive properties located in the immediate area. Petitioner concluded to a value of \$9,655,000 equal to \$50,550 per room. Petitioner's own test of reasonableness based on values placed on other hotels in the competitive market did not support the requested value. In sum, Petitioner provided insufficient probative evidence and testimony to prove that the valuation of the subject property, at \$14,852,500, was incorrect for tax year 2017.

**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-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).

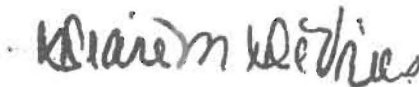
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 4th day of October, 2018.

**BOARD OF ASSESSMENT APPEALS**



Diane M. DeVries



Sondra Mercier

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

  
Milla Lishchuk