STATE TAX COMMISSION OF MISSOURI

ATRIUM FINANCE I, LP, Complainant(s),	)	Appeal No. 21-52003
	)	Parcel No. 11-03-07-0002-003-001
	)	
v.	)	
	)	
	)	
CHRISTOPHER ESTES, ASSESSOR, COLE COUNTY, MISSOURI, Respondent.	)	
	)	
	)	

DECISION AND ORDER

Atrium Finance I, LP, Complainant, appeals the Cole County Board of Equalization's (BOE) decision determining the true value in money (TVM) of the subject commercial property as of January 1, 2021, was $9,701,700. Complainant presented their evidence that the TVM of the subject as of January 1, 2021, was $7,000,000. Complainant did not produce substantial and persuasive evidence of overvaluation. The BOE's decision is affirmed.[1]

Complainant was represented by counsel, Apollo Carey. Respondent was represented by counsel, John Ruth. The evidentiary hearing was conducted on October 18, 2022, via WebEx.

[1] Complainant timely filed a complaint for review of assessment. The State Tax Commission (STC) has authority to hear and decide Complainant's appeal. Mo. Const. art. X, Section 14; section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

FINDINGS OF FACT

1. Subject Property. The subject property is a hotel operated as Capitol Plaza. The subject is located at 415 W. McCarty St., Jefferson City, Cole County, Missouri. The subject contains one parcel of land with 3.56 acres of land. The site is improved with a 34-year-old, full-service hotel and convention center, containing approximately 283,945 square-feet. The hotel and attached convention center totals approximately 179,827 square-feet. The three-level parking garage totals approximately 104,118 square-feet. This non-smoking, pet-friendly, full-service, hotel has 253 keys (two additional rooms not operational on January 1, 2021). Additional amenities include a snack room, restaurant, meeting rooms, banquet office, atrium, business center, fitness center, indoor pool, hot tub and guest laundry.

2. Respondent and the BOE. Respondent assessed the subject property and determined the TVM as of January 1, 2021 was $9,701,700. The BOE classified the subject property as commercial and independently determined the TVM on January 1, 2021, was $9,701,700.

3. Official Notice Request by Complainant. Complainant requests the State Tax Commission take official notice of *Lodge of the Four Seasons v. Marty McGuire*, 2022 WL 1493597 (regarding hotel average daily rate (ADR) calculation and the COVID-19 pandemic). Agencies shall take official notice of all matters of which the courts take judicial notice. Section 536.070(6). The SHO will take official notice of the case proffered and consider its applicability to the current appeal, giving it the weight deemed appropriate, if any.

4. Complainant's Evidence. Complainant submitted their alleged TVM of the subject property on January 1, 2021, of $7,000,000. Complainant presented Written Direct testimony (WDT) of Robert Becker and the following exhibit, which were admitted into evidence:

Exhibits	Description	Ruling
A	Appraisal Report Becker	Admitted
WDT	Robert Becker	

Complainant asked a question in rebuttal at the hearing regarding 2020 income to the hotel due to a government contract. Respondent objected to any inclusion of the information as it was not offered in rebuttal and it was not in the appraisal. The objection is overruled. Complainant's appraiser's knowledge regarding the property is relevant and the Respondent was able to cross-examine the Complainant's appraiser regarding the question.

Complainant presented testimony from expert witness Robert Becker, an MAI designated commercial real estate appraiser licensed in Missouri. Mr. Becker composed an appraisal report for Complainant, in which he developed the income and cost approaches to estimate the TVM in fee simple of the subject on January 1, 2021. He did not develop the sales comparison approach. Mr. Becker determined the income approach was a reliable indicator of value and given primary weight. (Exhibit A)

Mr. Becker testified COVID-19 impacts on the economy were a vital component of adjustments in both the cost and income methods. The Columbia/Jefferson City submarket declined 36.72% as a direct result of COVID-19, expected to return to 2019 levels in four years. (Exhibit A at 58) Within his COVID-19 Hotel Recovery Estimate summary and conclusion, Mr. Becker concludes he calculated the subject property's 2021 rates based on national data projections (CBRE and HVS), "occupancy for 2021 is projected at 50% by CBRE or 19.7% above 2020 levels. HVS suggest an occupancy of 53.5%, or 27% above 2020 levels. […] An occupancy of 59% is appropriate and supported by all four providers. ADR for the subject property is projected to be 5% above 2020 levels." (Exhibit A at 65)

Regarding the income approach, Mr. Becker used a combination of actual income and expense data and national hotel studies. (Exhibit A) Mr. Becker concludes that the "income approach is the only approach that effectively removes business value, FF&E and accurately supports obsolescence currently in the market". (Exhibit A at 103) Mr. Becker's appraisal concludes the information available for analysis is current and accurate, indicating the income approach to value is a reliable indicator of TVM and deserves primary weight in the final reconciliation. (Exhibit A) To estimate the actual rental income, he consulted Smith Travel Report (STR), CBRE Hotel Horizons report and the actual rates and income from the subject property to calculate an average daily rate (ADR) of $82.36 for 253 rooms. (Exhibit A)

The subject property's occupancy rate was based on a total room count of 253 rooms. Mr. Becker concludes, "for the 12 months ending in December 2020, the occupancy rate was 49.05%. The competitive set had an occupancy rate of 36.60%. The submarket scale had an occupancy rate of 41.80%. The proforma occupancy was reconciled in the COVID-19 Hotel Recovery Estimate section of this report (page 63-66). The proforma occupancy reconciles at 60%." (Exhibit A at 90) He calculated 253 keys x 365 days =

92,345 Room Nights, $82.36 ADR x 92,345 Room Nights = Potential room revenue of $7,605,534. (Exhibit A at 89) He then added the food and beverage revenue and other incomes and found the gross potential room revenue. He multiplied this by 60%, to find an effective gross income of $7,403,987. (Exhibit A)

He testified and his report concluded FF&E was estimated on site value of $3,542,000 based on hotel guides, and weighted age of 7, totals a return of FF&E of $506,000 and return on at 4.75% totaling $168,245, when added, the income to FF&E is $674,245 (rounded). (Exhibit A at 95-96) Mr. Becker used an analysis of the actual expense statements of the subject property to find the expense ratio 74% (a three-year average). (Exhibit A at 92) He utilized the expense ratio of 75%, due to his analysis of market reports and the 2019 actual operating expenses, which he reports "represents stabilization". (Exhibit A at 93) The income and expenses on the reconstructed operating statement determined the NOI of $795,592. (Exhibit A at 97) Mr. Becker estimated a loaded capitalization rate of 11.36%. (Exhibit A at 101) Mr. Becker's overall conclusion of TVM for the subject under both approaches to value was $7,000,000.

Mr. Becker utilized the cost approach to provide secondary weight in the income capitalization approach. The appraisal concludes "depreciation is difficult to measure due to the economic obsolescence currently present in the market. The economic obsolescence is directly related to the COVID-19 pandemic" (Exhibit A at 103). Mr. Becker used Marshall Valuation Services (MVS) for replacement cost new and physical depreciation calculations. Mr. Becker's report concludes that MVS estimates life expectancy of a full-service hotel and convention center at 55 years. The subject was 34 years old as of January

1, 2021. He calculated the subject's physical depreciation of 61.82% (34-year age / 55-year life = 0.6182, 0.6182 x 100 = 61.82%). (Exhibit A at 85) Mr. Becker's "Summary of the Cost Approach" as outlined on page 86 of Exhibit A, is as follows:

Replacement Cost New of Buildings	$33,058,184
Less: Physical Deterioration	($20,436,569)
Physically Depreciated Replacement Cost	$12,621,615
Less: Functional Obsolescence	($1,262,161)
Physically and Functionally Depreciated Cost	$11,359,453
Less: External Obsolescence	($5,600,000)
Depreciated Replacement Cost New	$5,759,453
More: Land Value	$1,200,000
Opinion of Value by the Cost Approach	$6,959,453
	Rounded $7,000,000

(Emphasis added).

5. Respondent's Evidence. Respondent submitted his proposed TVM for the subject property of $12,250,000 as of January 1, 2021. Respondent submitted an Appraisal Report, Exhibit 1, and Rebuttal Evidence, Exhibit 2. Respondent submitted the WDT of Bob Norris and Christopher Estes. Mr. Norris testified he has been an appraiser for over 40 years; 15 of them with Nunn Company, LLC. He testified he has an MAI designation. (WDT) Exhibit 1 is the appraisal report, which utilizes the income, cost, and sales comparison approaches to estimate the market value of the subject property. Mr. Norris testified all three approaches to value were given consideration and all of them indicated a similar value. Mr. Norris testified he relied most heavily on the income approach to value. (Exhibit 1 and WDT)

Mr. Norris conducted a local market analysis, citing national data and hotel studies and specific to the subject property regarding COVID-19, he concluded "the pandemic devastated the economy and more specifically the hotel/motel industry in 2020, its recovery began mid-year and conditions improved through the end of the year. As noted above, 2021 continued the recovery and while not yet back to peaks of 2019, the industry expects to fully recover in the 2022-2023 timeframe." (Exhibit 1 at 21) Further, regarding the subject property, he notes that it represents 18% of rooms in the city, has most of the available large meeting spaces for the immediate market area, and the state government/employment resumed operations due to the Missouri governor's declaration of the end of the COVID-19 crisis. (Exhibit 1 at 21)

Regarding the income approach, Mr. Norris used the Complainant's provided financial statements from 2018, 2019, and 2020. (Exhibit 1 at 60) Mr. Norris utilized an ADR of $82.63, multiplied by 365 days per year and 255 rooms within the subject property, with a 48.92% occupancy rate, then subtracting total estimated expenses, with a ratio of 69.8%, from the potential gross income, which produced an NOI of $1,866,931. (Exhibit 1 at 62 and WDT) He calculated a total loaded capitalization rate range of 10.4281% to 11.4281% to arrive at an adjusted value range of $12,000,000 to $13,200,000 (rounded). (Exhibit 1 at 64 and WDT)

In the cost approach, Mr. Norris used vacant land sale comparables to find a land value for the subject property of $1,850,000. (WDT) Mr. Norris testified he utilized replacement cost new and the MVS manuals for the improvements. (WDT) He testified he estimated replacement cost of the improvements, deducting the estimated depreciation of 45%, 35% external obsolescence, and adding back the land value to find a final TVM of $12,925,000 (rounded). (Exhibit 1 at 58)

Mr. Norris used three comparable sales, choosing hotels that had the same highest and best use to the subject property. (Exhibit 1) He made quantitative adjustments to those sales to compare with the subject property. Mr. Norris calculated unit value range of $41,500 to $47,500 and when multiplied by the number of units (255), rounded to $10,575,000 to $12,125,000. (Exhibit 1 at 54)

Testimony was presented by Christopher Estes, Cole County Assessor. Exhibit 2 is the cost of personal property submitted to Cole County by Complainant totaling $2,755,277, plus depreciation. (Exhibit 2)

6. Value. The TVM of the subject property on January 1, 2021, is $9,701,700.

CONCLUSIONS OF LAW

1. Assessment and Valuation

Pursuant to Article X, Sections 4(a) and 4(b), Mo. Const. of 1945 real property and tangible personal property is assessed at its value or such percentage of its value as may be fixed by law for each class and for each subclass. Article X, Sections 4(a) and 4(b), Mo. Const. of 1945. Commercial real property is assessed at 32% of its TVM as of January 1 of each odd-numbered year. Section 137.115.5(1)(c). "True value in money is the fair market value of the property on the valuation date, and is a function of its highest and best use, which is the use of the property which will produce the greatest return in the reasonably near future." *Snider v. Casino Aztar/Aztar Mo. Gaming Corp.*, 156 S.W.3d 341, 346 (Mo. banc 2005) (internal quotation omitted). The fair market value is "the price which the property would bring from a willing buyer when offered for sale by a willing seller." *Mo. Baptist Children's Home v. State Tax Comm'n*, 867 S.W.2d 510, 512 (Mo. banc 1993).

Determining the TVM is a factual issue for the STC. *Cohen v. Bushmeyer*, 251 S.W.3d 345, 348 (Mo. App. E.D. 2008). The "proper methods of valuation and assessment of property are delegated to the Commission." *Savage v. State Tax Comm'n*, 722 S.W.2d 72, 75 (Mo. banc 1986).

The income approach "is most appropriate in valuing investment-type properties and is reliable when rental income, operating expenses and capitalization rates can reasonably be estimated from existing market conditions." *Snider*, 156 S.W.3d at 347. "The income approach determines value by estimating the present worth of what an owner will likely receive in the future as income from the property." *Id*. "The income approach is based on an evaluation of what a willing buyer would pay to realize the income stream that could be obtained from the property when devoted to its highest and best use." *Id*. (internal quotation omitted). "When applying the income approach the valuing business property for tax purposes, it is not proper to consider income derived from the business and personal property; only income derived from the land and improvements should be considered." *Id*.

The State Tax Commission utilizes the "Rushmore Method" to estimate the TVM of hotels. *Yogijikrupa Hospitality-C LLC, v. Assessor, Taney County, Mo.*, Appeal No. 19-89506, 2021 WL 4977443, at *5 (Mo. St. Tax Comm'n 2021) (noting "[t]he STC has long recognized the Rushmore Method under the income approach for the valuation of hotel properties").[2] The Rushmore Method enables a valuation of hotel real estate by deducting the value of a franchise affiliation and the FF&E required to operate a hotel.

The Rushmore Method deducts the contributory value of the FF&E by estimating both the replacement cost and the return generated by the FF&E. The replacement cost is typically reflected in a reserve for replacement. The return on the FF&E is typically estimated by (1) using the market value of the personal property as shown on the assessment rolls; (2) an appraisal of the personal property; or (3) using the depreciated book value of the personal property. *Prestige Hotels v. Cox*, Appeal No. 20-79023 (Mo. St. Tax Comm'n, Feb. 25, 2022).

2. Evidence

The hearing officer is the finder of fact and determines the credibility and weight of the evidence. *Kelly v. Mo. Dep't of Soc. Servs., Family Support Div.*, 456 S.W.3d 107, 111 (Mo. App. W.D. 2015). The finder of fact in an administrative hearing determines the

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[2] The Rushmore Method is also widely accepted by courts across the country. *Glenpointe Assoc. et al. v. Township of Teaneck*, 31 N.J. Tax 596, 645 (2020) (holding the Rushmore method is generally used to value hotels); *Wisconsin & Milwaukee Hotel, LLC v. City of Milwaukee*, 936 N.W.2d 403 (Wis. App. 2019) (holding the "Rushmore approach to value hotels" complied with state law); *CHH Cap. Hotel Partners, LP v. D.C.*, 152 A.3d 591, 597 (D.C. 2017) (the Rushmore method is a "well-established and broadly accepted" method "well-conceived to yield a fair and accurate estimate of market value"); *RRI Acquisition Co. v. Supervisor of Assessments of Howard Cty.*, 2006 WL 925212, at *5 (Md. Tax Feb. 10, 2006) (applying Rushmore and holding a deduction for return on FF & E from income is required); *Marriott Corp. v. Bd. of Cty. Comm'rs of Johnson Cty.*, 972 P.2d 793, 796 (Kan. App. 1999) (holding the Rushmore method was the appropriate method to value a hotel and noting it "has been accepted in a number of litigated matters and rejected in none that have been brought to our attention"); *In re J.F.K. Acquisitions Group*, 166 B.R. 207, 209 (Bankr.E.D.N.Y.1994) (utilizing the Rushmore method and noting the appraiser who developed the method is an "eminent expert in the field of hotel appraisers.")

credibility and weight of expert testimony. *Hornbeck v. Spectra Painting, Inc.*, 370 S.W.3d 624, 632 (Mo. banc 2012). "It is within the purview of the hearing officer to determine the method of valuation to be adopted in a given case." *Tibbs v. Poplar Bluff Assocs. I, L.P.*, 599 S.W.3d 1, 9 (Mo. App. S.D. 2020). The hearing officer "may inquire of the owner of the property or of any other party to the appeal regarding any matter or issue relevant to the valuation, subclassification or assessment of the property." Section 138.430.2. The Hearing Officer's decision regarding the assessment or valuation of the property may be based solely upon his inquiry and any evidence presented by the parties, or based solely upon evidence presented by the parties. *Id*.

3. Complainant's Burden of Proof

The BOE's valuation is presumptively correct. *Rinehart v. Laclede Gas Co.*, 607 S.W.3d 220, 227 (Mo. App. W.D. 2020). To prove overvaluation, a taxpayer must rebut the BOE's presumptively correct valuation and prove the "value that should have been placed on the property." *Snider*, 156 S.W.3d at 346. The taxpayer's evidence must be both "substantial and persuasive." *Id.* "Substantial evidence is that evidence which, if true, has probative force upon the issues, and from which the trier of fact can reasonably decide the case on the fact issues." *Savage*, 722 S.W.2d at 77 (internal quotation omitted). Evidence is persuasive when it has "sufficient weight and probative value to convince the trier of fact." *Daly v. P.D. George Co.*, 77 S.W.3d 645, 651 (Mo. App. E.D. 2002); *see also White v. Dir. of Revenue*, 321 S.W.3d 298, 305 (Mo. banc 2010) (noting the burden of persuasion is the "party's duty to convince the fact-finder to view the facts in a way that favors that party"). A taxpayer does not meet his burden if evidence on any essential element of his case leaves the STC "in the nebulous twilight of speculation, conjecture and surmise." *See, Rossman v. G.G.C. Corp. of Missouri,* 596 S.W.2d 469, 471 (Mo. App. 1980).

4. Valuing Hotel or Motel Property

The STC has long recognized the Rushmore Method under the income approach for the valuation of hotel properties. The methodology has been recognized by state and federal courts, and by hotel owners and assessors' offices, as the most appropriate approach for valuing hotel properties. The Rushmore methodology has been the leading standard for valuation of hotels for over 20 years. The Rushmore methodology excludes the value of any income derived from FF&E, and adjustments are made for replacement of the property and for a return on the FF&E. The Rushmore Method also deducts the expenses for items such as management fees, franchise fees, and marketing to address the value derived from the business component.

In the real estate appraisal industry, the market value of a hotel is considered to consist of four components (1) value of the land; (2) value of the improvements; (3) value of the business or going concern and franchise affiliation; and (4) value of the furniture, fixtures and equipment (i.e. personal property). *John Hancock Mutual Life v. Stanton*, 1996 WL 663128 (Mo.St.Tax.Com.); Lesser and Rubin, *Understanding the Unique Aspects of Hotel Property Tax Valuation,* The Appraisal Journal, January, 1993, p. 17. For appraisal purposes, fixtures such as bathtubs and sinks are valued as part of the real property. *Property Appraisal and Assessment Administration*, International Association of Assessing Officers, 1990, p. 76.

The return on FF&E to be deducted from a hotel's income and expense statements can be calculated by (1) using the market value of the personal property as shown on the assessment rolls; (2) actual appraisal of the personal property; or (3) using the depreciated book value of the personal property. Return on FF&E is determined by adding the capitalization rate for the real property to the tax load or effective tax rate per $100 of the personal property and multiplying same by the assessed value of the personal property. In attempting to segregate personal property from real estate, the primary consideration in valuing the personal property is its actual contributory value, not its hypothetical replacement cost new less depreciation. Lesser and Rubin, *Understanding the Unique Aspects of Hotel Property Tax Valuation*, The Appraisal Journal, January 1993, P. 33, *Crown Center,* supra, p. 439*, John Hancock,* supra, p. 396.

Periodic replacement of furniture, fixtures and equipment is essential to maintain the quality, image, and income potential of a lodging facility. An appraisal should reflect these expenses in the form of an appropriate reserve for replacement. Industry experience indicates that a reserve for replacement of 3% to 5% of total revenue generally is sufficient to provide for timely replacement of furniture, fixtures and equipment. The deduction of a reserve for replacement from the stabilized statement of income and expense can therefore be used to account for the return of personal property. Lesser and Rubin, *Understanding the Unique Aspects of Hotel Property Tax Valuation*, The Appraisal Journal. January, 1993, p. 21, 22. *Crown Center*, supra, p. 440.

Management companies generally offer their brand names, corporate identities, and reservation systems solely in conjunction with their management expertise. The process of isolating the value of a hotel's business is based on the premise that by employing a professional management agent to handle the day-to-day operation of the property, an owner maintains only a passive interest, while income attributed to the business has been taken by the managing agent in the form of a management fee. Therefore, deduction of a management fee from the stabilized net income removes a portion of the business component from the stabilized income stream. Additionally, lodging facilities operated with a franchise affiliation provided by a third party are subject to the payment of franchise fees. Deducting the franchise fees from the stabilized net income removes the remaining business component from the income stream. Lesser and Rubin, *Understanding the Unique Aspects of Hotel Property Tax Valuation*, The Appraisal Journal, April 1984, p. 280-291; *Crown Center*, supra at p. 438. *John Hancock*, supra at p. 397.

The business value component of a hotel is accounted for through the franchise fee and the management fee. If these two items are calculated as expense items, no additional calculation is necessary to remove their impact from net operating income. Going concern value can be treated in one of two ways: The appraisers can leave the management and franchise fees in the expenses calculations, in which case no further calculation is necessary *OR* alternatively, they may remove those fees from the expenses and treat them separately. J*ohn Hancock*, supra. p. 397. Leaving management and franchise fees in the expense calculations and then making further adjustments for business value results in stating business value twice and understating the value of the real property.

5. Complainant Did Not Prove Overvaluation.

Hotels and motels are almost always valued by an income capitalization approach that takes the property's stabilized net income and capitalizes it into an estimate of market value. The stabilized net income is intended to reflect the anticipated operating results of the hotel over its remaining economic life, given any or all applicable stages of buildup, plateau, and decline in the life cycle. Therefore such stabilized net income excludes from consideration any abnormal relation of supply and demand and any transitory or nonrecurring conditions that may result in unusual revenues or expenses of the property. The process of deriving the stabilized net income for a lodging facility requires the appraiser to look into the future and estimate operating revenues and expenses. This is accomplished by forecasting or predicting trends in historical performance based on the hotel's current position in an economic life cycle. Most types of real estate exhibit a pattern or life cycle in their ability to generate income over a period of time. Usually a property's net income will start low and rise quickly, reaching a plateau before slowly declining. By determining a hotel's position in its life cycle the appraiser is able to forecast future income based on historical operating results.

Midlife hotels which show an historical operating performance that oscillates up and down is considered to be at the peak or plateau portion of its life cycle. Hotels which are in such a plateau, the historic net income does not significantly understate what can be considered a stabilized level of income. In hotels with oscillating income, the stabilized income will fall into a range between the highest income reported and the lowest income reported. These divergences cannot be considered unacceptable, particularly over a period of time where the smoothing impact of averaging tends to minimize the differences. Rushmore and Rubin, *The Valuation of Hotels and Motels for Assessment Purposes*, The Appraisal Journal, April 1984, p. 275-277. *Crown Center Hotel Complex, Inc. v. Robert Boley*, 49 Proceedings and Decisions, State Tax Commission, 423-435-436.

Complainant's findings of value are not persuasive due to the Appraiser's unreasonable deductions related to COVID-19. A stabilized net income excludes from consideration any abnormal relation of supply and demand and any transitory or nonrecurring conditions that may result in unusual revenues or expenses of the property. *Id*. at 255-277. "It is within the purview of the hearing officer to determine the method of valuation to be adopted in a given case." *Tibbs v. Poplar Bluff Assocs. I, L.P.*, 599 S.W.3d 1, 9 (Mo. App. S.D. 2020). Complainant requested the SHO take official notice of a recent decision where the SHO had decided that COVID-19 impacts were applicable to that property's valuation. However, this case and many others like it are distinguishable from that analysis, due to the fact that the SHO made no decision regarding the effects COVID-19 had on value, if any, but rather found the appraisals presented were substantial and persuasive of that subject property's TVM. Dicta and commentary regarding COVID-19 from an STC SHO is not a legal standard. A fact specific analysis is required for each case. COVID-19 is a factor, but in this case, Complainant's reductions are unreasonable. Missouri law guides us in that averaging is the proper method to use when valuing a midlife hotel to account for losses from a nonrecurring condition such as COVID-19. The focus on COVID-19 and its effects on the subject property undermine the credibility and persuasiveness of Complainant's evidence in both the cost and income approaches.

Respondent's appraisal report, Exhibit 2, did not make such drastic deductions, but still accounted for COVID-19 and utilized market data that the local market's COVID-19 impacts were trending back to 2019 levels. (Exhibit 1 at 21)

Furthermore, several factual inaccuracies appear within the appraisal, and therefore the resulting appraisal becomes inaccurate. The usage of 253 rooms/keys by Complainant is incorrect as the record revels there are actually 255 rooms/keys. The fact that a room is not being used at the time of the appraisal does not mean it has no value to a potential investor, but in effect, exclusion from calculations renders them valueless. The SHO would have to make calculations in order to find a TVM for Complainant, and hence, that evidence submitted is not substantial and persuasive.

Also, FF&E calculations rendered by Complainant are also unpersuasive as to value. Complainant's usage of an estimate for FF&E in their two approaches, rather than Complainant's own reported FF&E, is speculative and its usage skews any resulting calculations. Mr. Norris testified that he utilized the personal property reports Complainant provided to Respondent when calculating FF&E. (Exhibit 2) When actual data was available, usage of estimations amounts to speculation. The hearing officer will not engage in such speculation. Exhibit 2, supported by Respondent's Appraiser's testimony, supported the BOE's determination of TVM for the subject property after management and franchise fees were deducted and the return of and return on FF&E were accounted for.

Although not required given the burden of proof, Respondent presented exhibits and testimony that supported the BOE's valuation of the subject property. Respondent's evidence persuasively supports the BOE's value.

CONCLUSION AND ORDER

The BOE decision is AFFIRMED. The TVM of the subject property, as of January 1, 2021, was $9,701,700.

Application for Review

A party may file with the Commission an application for review of this decision within 30 days of the mailing date set forth in the certificate of service for this decision. The application "shall contain specific detailed grounds upon which it is claimed the decision is erroneous." Section 138.432. The application must be in writing, and may be mailed to the State Tax Commission, P.O. Box 146, Jefferson City, MO 65102-0146, or emailed to Legal@stc.mo.gov. A copy of the application must be sent to each person listed below in the certificate of service.

Failure to state specific facts or law upon which the application for review is based will result in summary denial. Section 138.432.K,

Disputed Taxes

The Collector of Cole County, as well as the collectors of all affected political subdivisions therein, shall continue to hold the disputed taxes pending the possible filing of an application for review, unless said taxes have been disbursed pursuant to a court order under the provisions of section 139.031.

SO ORDERED September 29, 2023.
STATE TAX COMMISSION OF MISSOURI

Erica M. Gage

Senior Hearing Officer
State Tax Commission

Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on September 29, 2023, to:

Complainant(s) and/or Counsel for Complainant(s), the County Assessor and/or Counsel for Respondent and County Collector.

Stacy M. Ingle
Legal Assistant