# STATE TAX COMMISSION OF MISSOURI

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| ATRIUM FINANCE III LP, | ) | Appeal No. 21-79052 |
| Complainant(s), | ) | Parcel No. 17-7.0-36-100-002- |
| | ) | 002.001 |
| v. | ) | |
| | ) | |
| | ) | |
| DAVID COX, ASSESSOR, | ) | |
| PLATTE COUNTY, MISSOURI, | ) | |
| Respondent. | ) | |

**DECISION AND ORDER**

Atrium Finance III LP, Complainant, appeals the Platte 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 $7,685,716. Complainant presented their evidence that the TVM of the subject as of January 1, 2021, was $4,100,000. Complainant did not produce substantial and persuasive evidence of overvaluation. Respondent presented substantial and persuasive evidence of value. The BOE's decision is Set Aside.[1] The TVM of the subject property as of January 1, 2021, was $7,450,000.

[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.

Complainant was represented by counsel, Apollo Carey. Respondent was represented by counsel, Stephen Magers. The evidentiary hearing was conducted on May 19, 2022, via WebEx.

## FINDINGS OF FACT

**1. Subject Property.** The subject property is a hotel operated as Homewood Suites. The subject is located at 7312 Northwest Polo Drive, Kansas City, Platte County, Missouri. The subject property consists of one parcel of land containing approximately 2.82 acres of land. Improvements were constructed on the site in 1996 and provide areas of utility designed for a full-service hotel. The hotel is a three-story building and contains a total of 91,365 square-feet. The subject is located on the north side of Kansas City, Missouri. This non-smoking, pet-friendly, full-service hotel has 116 keys. Additional amenities include a breakfast room, meeting rooms, courtyard, business center, fitness center, outdoor pool, and guest laundry.

**2. Respondent and the BOE.** Respondent assessed the subject property and determined the TVM as of January 1, 2021 was $7,685,716**.** The BOE classified the subject property as commercial and independently determined the TVM on January 1, 2021, was $7,685,716.

**3. Official Notice Request by Respondent.** Respondent requests the State Tax Commission take official notice of *CH Hotel v. Cox*, 20-79023 (regarding return of FF&E calculation must be made by using actual rolls). Complainant moved to strike Respondent's request for official notice as the case law cited is applicable as a fact specific legal application and the weight of the evidence should be determined by the SHO. Agencies shall take official notice of all matters of which the courts take judicial notice. Section 536.070(6). Complainant's Motion to Strike is overruled. The SHO will take official notice of the case proffered by Respondent and consider its applicability to the current appeal, giving it the weight deemed appropriate, if any.

**4. Complainant's Evidence.** Complainant submitted their TVM of the subject property on January 1, 2021, of $4,100,000. Complainant presented Written Direct testimony (WDT) of Robert Becker and the following:

| Exhibits | Description | Ruling |
|---|---|---|
| A | Appraisal Report Becker | Admitted |
| WDT | Robert Becker | |

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 value 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. 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 50% is appropriate and supported by all four providers. ADR for the subject property is projected to be 5% above 2020 levels." (Exhibit A at 67)

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 104) 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)

Mr. Becker relied most heavily on the income approach. 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 $113.93 for 116 rooms. (Exhibit A at 91)

The subject property's occupancy rate was based on a total room count of 116 rooms. Mr. Becker concludes "for the 12 months ending in December 2020, the occupancy rate was 30.80%. The competitive set had an occupancy rate of 35.00%. The submarket scale had an occupancy rate of 35.00%. The proforma occupancy was reconciled in the COVID-19 Hotel Recovery Estimate section of this report (page 64 – 67). The proforma occupancy reconciles at 50%." (Exhibit A at 92) He calculated 116 keys x 365 day = 42,340 Room Nights, $113.93 ADR x 42,340 Room Nights = Potential room revenue of $4,823,796. (Exhibit A at 93) Reducing the gross potential room revenue by 50%, he found an effective gross income of $2,478,225. He testified and his report concluded FF&E was estimated on site value of $928,000 based on hotel guides, and weighted age of 7, totals a return of FF&E of $132,600 and return on 4.75% $44,100, when added the income to FF&E is $176,700 (rounded). (Exhibit A at 96-97)

Mr. Becker used an analysis of the actual expense statements of the subject property to find the expense ratio of 77.27% (a three-year average from 76.500% in 2018, 68.91% in 2019, and 86.39% in 2020). (Exhibit A at 94) He utilized the expense ratio of 68%, due to his analysis of market reports and the 2019 actual operating expenses which he reports "represents stabilization". (Exhibit A at 95) The income and expenses on the reconstructed operating statement determine the NOI of $477,203. (Exhibit A at 97) Mr. Becker estimated a loaded capitalization rate of 11.78%. (Exhibit A at 102) Mr. Becker's overall conclusion of TVM for the subject under both approaches to value was $4,100,000.

Mr. Becker developed the cost approach as a "test of reasonableness" to 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 104). Mr. Becker utilized the cost approach to provide secondary weight in the income capitalization approach.

Regarding cost, 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 at 45 years and the subject is 25 years old as of January 1, 2021. He calculated the subject's physical depreciation of 62.50% (25-year age / 45-year life = 0.5556, 0.5556 x 100 = 55.56%).

(Exhibit A at 86) Mr. Becker's "Summary of the Cost Approach" as outlined on page 88 of Exhibit A, is as follows:

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|---|---|
| Replacement Cost New of Buildings | $13,486,562 |
| Less: Physical Deterioration | ($7,493,134) |
| Physically Depreciated Replacement Cost | $5,993,428 |
| Less: Functional Obsolescence | ($599,343) |
| Physically and Functionally Depreciated Cost | $5,394,085 |
| Less: External Obsolescence | ($1,660,000) |
| Depreciated Replacement Cost New | $3,734,085 |
| More: Land Value | $320,000 |
| Opinion of Value by the Cost Approach | $4,054,085 |
| | *Rounded $4,100,000* |

*(Emphasis added).*

**5. Respondent's Evidence.** Respondent submitted their proposed TVM for the subject property of $7,450,000 as of January 1, 2021. Respondent submitted the following Exhibits:

| Exhibit | Description | Ruling |
|---|---|---|
| 1 | WDT of Robin Marx | Admitted |
| 2 | Appraisal Report | Admitted |
| 3 | 2021 BPP Depreciated Costs | Admitted |
| 4 | Complainants Answers to Respondent's Interrogatories | Not Admitted |

Respondent submitted the WDT of Robin Marx. Mr. Marx testified he has been an appraiser for over 46 years; 45 of them with Bliss Associates, LLC. He testified he has MAI and SRA designations. Mr. Marx testified he holds a real estate broker's license, and appraisal licenses in Kansas and Colorado and has advanced training in statistical methods of valuation. (WDT) Exhibit 2 is the appraisal report, which utilizes the income, cost, and sales comparison approaches to estimate the market value of the subject property. Mr. Marx testified all three approaches to value were given consideration and all of them indicated a similar value. Mr. Marx testified he relied most heavily on the income approach to value with support from the cost approach and little weight given to the sales comparison approach. (Exhibit 2) For all of his approaches, Mr. Marx utilized the personal property (FF&E) as was reported by Complainant and scheduled on the tax rolls at $1,127,090. (Exhibit 2 at 53 and Exhibit 3)

Regarding the income approach, Mr. Marx used the average daily rate (ADR) studies and Complainant's provided income information. (Exhibit 2) Mr. Marx utilized a reduced ADR of $115, multiplied by 365 days per year and 116 rooms within the subject property, with a 55% occupancy rate, reduced by 70.43% expenses to arrive at a Net Operating Income (NOI) of $815,690. (Exhibit 2 at 72) He calculated a total loaded capitalization rate of 11.78%, to arrive at an adjusted opinion of value of $9,500,000 (rounded). (Exhibit 2 at 71-73) Mr. Marx adjusted for COVID-19 based on CBRE survey November 10, 2020, and applied a 10% discount rate. (Exhibit 2 at 71-73) He justified this rate based on chain scale and overall price range. (Exhibit 2 at 73) He applied this prior to the FF&E deduction, calculated as follows: $1,120,070 / 11.78% =$9,500,000 (rounded) to $9,500,000 x 0.9 (10% discount) = $8,550,000. (Exhibit 2 at 73) Then, deducting the value of FF&E yields the following: $8,550,000 - $1,127,090 = $7,422,910, rounded to $7,400,000. (Exhibit 2 at 73) The reconciled value of $7,450,000 for the retrospective value, real estate only is his conclusion under the income approach.

In the cost approach, Mr. Marx used land comparables to find a land value of $430,000. Mr. Marx 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 30% and adding back the land value to find a total square-foot value of $164.23, finding a final TVM of $7,500,000. (Exhibit 2 at 49-53)

Mr. Marx testified the sales comparison approach was given the least amount of weight due to the limited availability of sales data for similar properties. Mr. Marx used three sales comparables, choosing hotels that had the same highest and best use to the subject property. (Exhibit 2) He made quantitative adjustments to those sales to compare with the subject property to arrive at a value of $7,550,000 (rounded). He concluded the sales were "adjusted for condition/brand, location, and the sales that were pre-covid were adjusted downwards 10%, consistent with the price discount indicated by the CBRE survey in the income approach" and thus the concluded unit value is $75,000. (Exhibit 2 at 54) Mr. Marx calculated $75,000 adjusted price per room x 116 rooms = $8,700,000 (10% adjusted TVM) – $1,127,090 (FF&E) = $7,572,910 TVM, rounded to $7,550,000." (Exhibit 2 at 54)

**6. Value.** The TVM of the subject property on January 1, 2021, is $7,450,000.

## 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,

[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.")

111 (Mo. App. W.D. 2015). The finder of fact in an administrative hearing determines the 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 shows an historical operating performance which oscillates up and down is considered to be at the peak or plateau portion of its life cycle. With 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. COVID-19 is a factor, but in this case, Complainant's reductions are unreasonable. Missouri law guides 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. Respondent's appraisal report, Exhibit 2, did not make such drastic deductions and utilized a reasonable 10% deduction, backed by CBRE surveys. The FF&E calculations rendered by Complainant are also unpersuasive as to value. "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'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. When actual data was available, usage of estimations is speculation. The hearing officer will not engage in such speculation. Exhibit 2, supported by Respondent's Appraiser's testimony, found a 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 substantial and persuasive evidence in the form of exhibits and testimony that that rebutted the presumption that the BOE's value was correct and established a lower TVM of $7,450,000.

## CONCLUSION AND ORDER

The BOE decision is AFFIRMED. The TVM of the subject property, as of January 1, 2021, was $7,450,000.

### 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 Platte 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