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PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2017-025-00213C

Parcel No. 16-02-426-003

West Des Moines Hotel Associates LLC,

Appellant,

vs.

Dallas County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 28, 2018. Attorney Sarah Franklin represented West Des Moines Hotel Associates LLC (WDM Hotel). Attorney John Lande represented the Dallas County Board of Review.

WDM Hotel owns a commercial property located at 1250 Jordan Creek Parkway, West Des Moines, Iowa. The subject property's January 1, 2017 assessment was set at $17,956,710, allocated as $3,497,440 in land value and $14,459,270 in improvement value. (Exs. A & 11).

The former owner, IA Lodging West Des Moines LLC (IA Lodging), petitioned the Board of Review claiming the subject property's assessment is not equitable compared with the assessments of other like property and that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(a & b) (2017). The Board of Review denied the petition. IA Lodging reasserted the over assessment claim to PAAB. The subject property subsequently transferred ownership, and on August 23, 2017, PAAB ordered the substitution of WDM Hotel as the appellant, and re-captioned the appeal.

Findings of Fact

The subject property is a 5.81-acre site with a nine-story, full-service hotel built in 1974. The hotel has 160,096 square feet of gross building area, which includes 219 guest rooms, a conference center, bar, restaurant, fitness center, and an indoor pool. The site is also improved with 182,000 square feet of paving, two small equipment outbuildings, and a three-stall garage. (Ex. A).

Catherine Creighton, Dallas County Chief Deputy Assessor and Commercial Appraiser, explained how the subject property's assessed value was determined. Iowa law requires assessors to use the cost approach to value, and the IOWA REAL PROPERTY APPRAISAL MANUAL (2008) for determining assessed values. She noted unit land prices were established based on area sales, which were adjusted given location and use. Two different unit prices were used to calculate the subject property's land value, with 4 acres viewed as necessary for sustaining its use and the remaining 1.81 acres considered secondary land of less value. (Ex. A). The subject property's depreciation was based upon her onsite inspection of the property's condition. She did not apply any obsolescence to the property because she viewed it as being in a prime location along the busiest corridor in the Des Moines metro area. She did apply a locational map factor of 1.10 to reflect market conditions in the vicinity. She testified that she has inspected and valued most of the hotels in the County, and believes the subject property's assessment is reasonable.

Bruce Kinseth, Senior Vice President of Kinseth Hospitality (KH), testified on behalf of KH's subsidiary WDM Hotel. (Ex. 11, p. 2). He noted KH owns and/or manages sixty-eight hotels, seven of which are in the Des Moines area. One of its latest acquisitions was the subject property.

Kinseth testified that he has been in the hotel business throughout his career and his experience includes buying, selling, renovating, and managing hotel properties. He is involved in determining how much to pay for a hotel. Considerations include the market and the hotel's financial performance/income. He also considers the type of hotel, accessibility to competition and associated risks, and the amount of additional investment that will be needed both short term and long term regarding all aspects of the property.

In early 2016, Kinseth became aware the subject property was for sale. He described it as a full-service hotel with a restaurant, bar, a significant amount of meeting space with multiple breakout rooms, a full and junior ballroom, an executive lounge, a fitness center, and an indoor swimming pool with a whirlpool. He explained it is a fully functioning, very successful Marriott hotel with good income and in the top 50% of Marriott hotels in North America. Based on his experience, Kinseth believes full-service hotels generally have higher capitalization rates because of the added risks associated with such areas as bars and restaurants. He further believes there are fewer buyers interested in full-service hotels because of the more expansive management skills required to run the different hotel operations.

Kinseth testified that the seller was a sophisticated national hotel and real estate investment group. After lengthy negotiations, a purchase agreement was executed on April 27, 2017, with a sale price of $19,500,000, and a $1,250,000 buyer credit for fixtures, furnishings, and equipment (FF&E) cash reserve. (Ex. E, pp. 11-12). The sale price was further reduced $500,000 after WDM Hotel became concerned about the marketplace and reported income. The final net purchase price became $17,750,000. Kinseth asserts WDM Hotel probably overpaid for the subject property, but wanted it because it fit so well within KH's management structure.

The purchase agreement specifies WDM Hotel shall assume the Seller's responsibilities under the existing franchise agreement, and submit an application and enter into a new franchise agreement with Marriott as soon as reasonably practicable after closing. (Ex. E, p. 24). The agreement further stipulates WDM Hotel is responsible for all costs and expenses set forth in the Property Improvement Plan (PIP) as required in the new franchise agreement. (Ex. E, p. 25).

WDM Hotel entered into a new 20-year franchise agreement with Marriot. Kinseth confirmed a new PIP was entered into as part of the franchise re-licensing process. However, WDM Hotel did not provide a copy of the new PIP. The only PIP in the record is from August 2015, which states, "All Relicensing PIP Scope of Work shall be completed and accepted by Marriott by no later than 18 Months after re-licensing transaction date unless otherwise indicated below." (Ex. E, p. 51). Of note, it requires completion of replacements and updates to public spaces, food & beverage, guestrooms and suites, guest baths and suite baths, and the guest concierge lounge by June 2018. (Ex. E, pp. 52-62). In addition, replacements and updates to function spaces, including the ballrooms, boardrooms, and meeting rooms, are to be completed by June 2019. (Ex. E, pp. 56-58). Although we cannot detail every requirement of the PIP, we recognize the August 2015 PIP required the replacement of personal property items as well as the repair, replacement, and updates to real property.

Kinseth stated the PIP addresses both short and long term needs of a property, noting Marriott will extend the replacement schedule if items have been well-maintained. He cited replacing tubs in all guest rooms with walk-in showers as a PIP priority given it is a new Marriott standard. The shower upgrades will require an expenditure of about $1,500,000. Kinseth noted that WDM Hotel also has its own vision of what it wants to accomplish above and beyond what is required by Marriott, such as having the first "M Club" in the Des Moines area.

Kinseth acknowledged there are some capital improvements that will be needed in the future. This includes such items as a new roof, which is not currently presenting problems but it is over 20-years old, and window replacement. He noted a request for bids has gone out for the windows because heavy condensation during cold weather is causing some water damage.

The Board of Review pointed to a number of improvements outlined in the August 2015 Marriott PIP in effect at the time of purchase, asserting Marriott required implementation of those improvements within about a year of WDM Hotel's acquisition. (Ex. E, pp. 52-55 & 58-62). Based on the August 2015 PIP, the Board of Review further contends there was only about a year left in the economic life of the personal property. The Board of Review noted the PIP required full soft goods replacement in many areas of the subject property prior to June 2018. (Ex. E, p. 51-65). The Board of Review contends this indicates a remaining economic life of one year for these components of the FF&E. Kinseth maintains the soft goods are less expensive than other personal property items, including case goods, and represent only half of the FF&E. Kinseth testified that the PIP was modified after an inspection of the property with Marriott representatives following the sale. As a result, WDM Hotel was allowed to retain some items that were scheduled to be replaced pursuant to the PIP in place at the time of sale. There is no evidence in the record regarding what the PIP modifications include in terms of personal property replacement or timelines. The Board of Review argued any alterations from the PIP in place WDM Hotel was able to renegotiate post-sale are irrelevant to its January 1, 2017 assessed value.

Kinseth testified that, in his opinion, the specified improvements represent only about half of the subject property's FF&E. He stated that the subject property has an extensive amount of FF&E because it is a full-service hotel. He further noted that the last major renovation of the hotel occurred in 2012, so items with an 8-year life do not need to be replaced until 2020, and case goods,[1] which are the most costly items, do not need to be replaced until 2024. He noted WDM Hotel is in good standing one year out and it has not had to do anything listed in the August 2015 PIP. (Ex. E, p. 51).

A July 11, 2017 special warranty deed states "$3,840,000 of the total consideration paid by Grantee for this transaction was paid for personal property." (Ex. 11, p. 2). Kinseth contends this indicates the parties agreed to the allocation because they both signed the document. The Board of Review argued this does not mean the parties were in agreement of the allocation. It referred to the April 2017 purchase agreement, which states "neither party is required to adopt each other's allocation." (Ex. E, p. 12).

Kinseth stated the allocation represented 20% of the purchase price or $17,500 per room. He believes this is a reasonable per room price for a Marriott flag. He contends FF&E on a brand new or renovated Marriott could easily run at least $30,000 per room. This estimate considers all the FF&E for a full-service hotel, which would

[1] Kinseth identified case goods as items such as headboards, bureaus, desks, and other furniture in a hotel room. It does not include soft goods such as bedding or other amenities such as soft seating, TVs, lights, or refrigerators. However, the Appraisal Institute defines case goods as "products used in guest rooms of lodging facilities that arrive in cases, e.g., furniture, mattresses, televisions, lights, mini-refrigerators." (APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 29 5th ed.2010).

include the public areas. We note the $3,840,000 allocation represents 20% of the gross sale price of $19,500,000.

WDM Hotel offered an Acquisition Price Allocation Valuation Summary Report for the subject property's July 2017 sales transaction, which was developed by Ryan, LLC (Ryan). (Ex. 9/WDM Hotel 0458). Ryan concluded an indicated value for the tangible personal property to be $1,510,000 (rounded). (Ex. 9, p. 10/WDM Hotel 0467). Kinseth believes Ryan's opinion of the real estate and the FF&E were low, but that its conclusions of the franchise value of $5,179,000 was reasonable. (Ex. 9, p. 4/WDM Hotel 0461). Overall Kinseth did not find the report reliable. (Ex. 9, p. 4/WDM Hotel 0461). The Ryan firm did not inspect the subject property; it is not a valuation or appraisal firm; and its report stated that its analysis "should not be used or relied on" as an independent appraisal. (Ex. 9, p. 18/WDM Hotel 0475). Therefore we give it no consideration.

While Kinseth's testimony provided background on the subject property, he did not offer an opinion of the subject property's real estate value as of January 1, 2017.

Three appraisals were offered for consideration. WDM Hotel submitted an appraisal completed by Don Vaske of Frandson & Associates, L.C., Des Moines, Iowa. (Ex. 6). The Board of Review submitted appraisals by Ranney Ramsey of Nelsen Appraisal Associates, Inc., Urbandale, Iowa and Mark Kenney of American Valuation Group, Inc., Lansdale, Pennsylvania. (Exs. I/WDM Hotel0006 & H). The three appraisers testified at hearing and are qualified to appraise the subject property.

All of the appraisers considered the subject property a full-service hotel and analyzed it as a going concern. The following table summarizes the appraisers' approaches to value and their respective conclusions. (Exs. 6, I/WDM Hotel0006 & H).

Appraiser	Sales Approach	Income Approach	Cost Approach	Reconciled Value[2]	Real Estate Allocation	FF&E Allocation	Franchise Allocation
Vaske	NA	$18,080,000	$17,850,000	$17,750,000	$14,950,000	$2,300,000	$500,000
Ramsey	$19,250,000	$19,600,000	NA	$19,600,000	$18,340,000	$560,000	$700,000
Kenney	$19,700,000	$20,400,000	NA	$20,000,000	$20,000,000	$560,000	NA

Vaske Appraisal

Vaske testified that a WDM Hotel representative informed him they were attracted to the subject property because of its locational attributes, overall condition, operating history, and the Marriott franchise agreement in place and in good standing at the time of sale. He deemed the buyer to be an experienced hotel/motel owner/operator, and that its July 2017 acquisition represented an arm's length negotiated transaction between a sophisticated seller and buyer. He also believed there was sufficient market exposure prior to the sale. Therefore, he concluded the $17,750,000 net sale price reflected the subject property's actual market value, noting it included the value of its real estate, personal property, licenses and permits, intangible property, and the FF&E. Vaske made no mention in his report or testimony regarding the impact of the PIP that was in place at the time of the sale.

Although originally constructed in 1974, Vaske testified that the subject property topped the list in both occupancy and average daily room rates (ADR) over the past three years when compared with six nearby competing hotels after analyzing Smith Travel Research and the STAR Report. However, he noted that four new hotels had been constructed in the subject property's market area during 2016 and 2017, totaling an additional 399 guest rooms. (Ex. 6, p. 77). He therefore concluded the subject property may face challenges in receiving better-than-average ADRs in the future because it is now competing with newer properties. (Ex. 6, p. 75).

Vaske acknowledged the subject property is in an excellent location and its highest and best use is as improved. While he did not consider it to have any functional

[2] The appraisers approached their reconciliation differently. Vaske and Ramsey reconciled to a value inclusive of real property, FF&E, and intangibles. From their reconciled value, they then removed allocated value to the real estate, FF&E, and the franchise. Conversely, Kenney deducted the FF&E value prior to reconciling to his final conclusion. Thus, his reconciled value represents real estate only.

obsolescence, he noted it is starting to separate itself from new construction due to such things as ceiling heights and hallway widths.

A. Sale Comparison Approach

Vaske did not develop the sales comparison approach, but ultimately relied on the subject property's net purchase price in his final reconciliation of value. He believed the sales comparison approach to be an unreliable indication of the subject property's value. (Ex. 6, p. 70). His search found no recent sales in the Des Moines metro area, in Iowa, or in the Midwest that he considered comparable to the subject property. (Ex. 6, p. 69). While sales of limited service motels may have existed, he believed them to not be comparable to a full-service hotel and convention center. He did acknowledge that the downtown Des Moines Marriott recently sold, but he was uncomfortable relying on this sale, explaining a lack of verification, as well as privately owned condominiums in the building made it difficult to analyze.

B. Cost Approach

Vaske is the only appraiser that developed the cost approach to value. He analyzed and adjusted four recent land sales, all located in West Des Moines, and concluded an opinion of $3,795,000 (rounded) for the subject property's site value. (Ex. 6, pp. 56-62). Vaske observed that the subject property's improvements appear to have been adequately maintained over the years but noted that it does suffer from normal physical deterioration. He specifically noted that all of the windows in the hotel tower have serious chronic moisture problems and replacement or major repair is needed. (Ex. 6, p. 67). Vaske noted the subject property does not appear to suffer from substantial functional or external obsolescence.

Relying on MARSHALL AND SWIFT VALUATION SERVICE (MARSHALL VALUATION), Vaske estimated the subject property's replacement cost new (RCN). (Ex. 6, p. 63). He arrived at an estimated RCN of $28,323,720 for the subject property's buildings. (Ex. 6, p. 68), and he arrived at $1,210,000 RCN for its site improvements. (Ex. 6, p. 68).

Vaske opined an effective age of 33 years and an economic life of 55 years for the subject property's buildings. Relying on the age/life method, Vaske determined the accrued physical depreciation was 60%, resulting in a total value of $11,329,488 for the subject improvements, plus an additional depreciated value of $423,500 for the site improvements. He arrived at a total RCN less depreciation of $11,752,988 for the buildings and site improvements. After adding in his $3,795,000 site value, he concluded a total value of $15,548,000 (rounded) for the value of the subject property's real estate.

Vaske also concluded a depreciated cost for the subject property's FF&E, reporting it had an economic life of 10 to 15 years. (Ex. 6, p. 67). He relied on MARSHALL VALUATION to determine an RCN of $30,000 per full-service hotel room or a total value of $6,570,000 for the FF&E. He then applied a 65% depreciation rate to arrive at a contributory value of $2,300,000 (rounded). (Ex. 6, p.68).

Vaske testified that to his knowledge the subject property's case goods were replaced in 2012, except for the beds; so they were only 5-years-old as of the assessment date. In his opinion they appeared in average condition during his onsite visit, but added ". . . the beds are assumed to be near the end of their economic life." His report states "The furniture, fixtures, and equipment within full service hotels with convention facilities, including full kitchen, bar, dining, and banquet/conference meeting space, typically has an economic life of 10 to 15 years." (Ex. 6, p. 67). In Vaske's opinion, "[t]he majority of the FF&E met the Marriott standard and no major replacement, other than beds, was expected to be *mandated* in the near term." (Emphasis added). (Ex. 6, p. 68). In depreciating the FF&E, Vaske makes no mention of and appears to give no consideration to the PIP.

Vaske does not agree with the other appraisers' 90% depreciation for the FF&E, because he believes the subject property is meeting the expectations of customers and guests given it is competing well in the marketplace with regards to room rates and occupancy. The Board of Review was critical of his depreciation estimate, asserting it did not adequately consider the higher level of depreciation of soft goods.

C. Income Approach

Vaske considered the income approach the most appropriate method for analyzing and estimating the subject property's market value. (Ex. 6, p. 69). He testified that market participants primarily rely on the income approach.

To estimate net operating income (NOI) for the subject, Vaske used a stabilized occupancy rate of 68%, an average room rate of $132, and revenue per available room (REVPAR) of $89.76. (Ex. 6, p. 81). Vaske estimated operating expenses, including reserves for FF&E and capital improvements as well as management fees and franchise expenses, to conclude a NOI of $2,530,731. (Ex. 6, p. 72 & 81).

Vaske was critical of using national surveys for determining the subject property's capitalization rate, contending the local market is not reflected in them because there were only two sales of full-service hotels with convention facilities within the Des Moines metro area—the downtown Marriott and the subject property. He reported "overall capitalization rates for full service hotels are higher compared with limited service hotels in response to the additional risk associated with the efforts to achieve the income from the additional services." (Ex. 6, p. 82).

Relying on comparable sales and a mortgage equity band of investment technique, Vaske concluded an overall capitalization rate of 10.75%. He added a tax constant of 3.25%, which was adjusted for the 10% commercial rollback, and concluded a loaded capitalization rate of 14.00%. (Ex. 6, 84).

Vaske concluded the subject property's value by the income approach to be $18,080,000 (rounded), which he believes supports the subject property's net sale price of $17,750,000. Vaske testified that this includes the real property, FF&E, and the franchise flag.

D. Reconciliation

Despite his testimony that the income approach was the most appropriate method of valuing the subject property, Vaske gave all consideration to the subject property's July 2017 net sale price of $17,750,000. (Ex. 6, p.85). He then allocated $2,300,000 for FF&E and $500,000 to the Marriott flag. He did not provide any explanation as to how he arrived at a value of $500,000 for the Marriott flag. Vaske reconciled to a January 1, 2017 final opinion of value for the subject property's real estate of $14,950,000. (Ex. 6, p. 86).

Ramsey Appraisal

At the request of the Board of Review, Ramsey appeared under a PAAB subpoena and testified as a fact witness about an appraisal report of the subject property he completed for his client, West Bank, for mortgage lending purposes. (Ex. I/WDM Hotel0006). The report concludes a value of the property as of May 2017. (Ex I, p. 7/WDM Hotel0012).

Ramsey reported the subject property's April 2017 sale price at $19,500,000, which includes personal property, licenses and permits, intangible property, and a $1,250,000 FF&E cash reserve. (Ex. I, p. 60/WDM Hotel0065). He recognized the property sold subject to a PIP. (Ex. I, p. 7/WDM Hotel0012). In describing the existing improvements, he also summarized renovations contemplated by the PIP. (Ex. I, p. 66 & 103/WDM Hotel0071 & WDM Hotel0108). He identified the subject as being in "good general condition but also at the end of its renovation life-cycle." He noted "the property is slated for renovation." (Ex. I, p. 74/WDM Hotel0079).

A. Sales Comparison Approach

Ramsey considered six sales in his report. Sale prices per room ranged from $41,358 to $391,083. He explained that very detailed and comparable information is required to interpret such sales, which was not readily available. Because of the considerable range in values, Ramsey ranked the sales and the subject property based on general quality. The following table lists the properties as Ramsey ranked them. (Ex. I, pp. 86/WDM Hotel0091 & 95/WDM Hotel0100).

Comparable	Guest Rooms	Rev Per Room	NOI Per Room	Sale Price Per Rm	PIP Per Room
Marriott Boulder, CO	157	$167.00	$32,069	$391,083	None
Hyatt Place Downtown DSM	93	NA	$15,591	$173,238	$ 8,065
Marriott Downtown DSM	415	$100.11	$10,361	$ 80,964	$48,193
Subject Property	**219**	**$ 91.58**	**$ 9,890**	**$ 87,900**	**$52,511**
Hilton Phoenix, AZ	226	$ 81.44	$ 7,765	$129,425	$66,371
Hilton Glendale, WI	162	$ 69.98	$ 3,656	$ 41,358	$49,382
Hampton Inn Fleur Dr DSM	120	$ 56.24	NA	$ 86,667	$22,175

Ramsey testified that there was considerable variability amongst the six hotels he considered in his sales comparison approach because they occurred during different points in the hotel's life cycle. As an example, he cited the downtown Des Moines Marriott Hotel's sales transaction. An informed source confirmed the gross selling price and deed attributed $4,190,468 or $10,097 per room to personal property with an estimated $20,000,000 or $48,193 per room PIP. (Ex. I, pp. 87/WDM Hotel0092 & 95/WDM Hotel0100). Ramsey noted the highest sale prices were for brand new or recently renovated properties, with lower or discounted prices occurring when the buyer was required to take the risk of investing significant resources into the property. His report notes that the sales comparison approach is "a weak method of attempting to estimate value of a stabilized asset – not to speak of an asset undergoing a major renovation" (Ex. I, p. 96/WDM Hotel0101). Ramsey testified that his confidence in the level of information and its comparability from one property to another was relatively low. He felt that coming up with an opinion of value for the subject property under the sales comparison approach was not reliable and not very trustworthy, particularly given the asset is undergoing a major renovation. (Ex. I, p. 96/WDM Hotel0101). Based on this analysis, Ramsey concluded a market value of $19,250,000 under this approach.

B. Cost Approach

Ramsey did not develop a total opinion of value by the cost approach, but did estimate the value of FF&E. While Ramsey did not submit an opinion of the effective age of the FF&E, he did note the subject property is "at the end of its renovation life-cycle." (Ex. I, p. 74/WDM Hotel0079). He ultimately depreciated the FF&E by 90%, suggesting the FF&E had nominal remaining economic life.

C. Income Approach

Ramsey testified that the subject property has out-performed the "upper upscale class" hotels in Des Moines, most likely due to its excellent location. But he noted it "lags below the market in its Average Daily Rate - probably due to the need for renovation of common areas and guest suites." (Ex. I, p. 99/WDM Hotel0104). Ramsey noted the subject property's ADR is $130.87. (Ex I, p. 111/WDM Hotel0116).

Ramsey testified that the buyer told him about a planned renovation for the subject property. (Ex. I, p. 103/WDM Hotel0108). His report states “[t]he owner plans improvements including and beyond the scope of the PIP to the extent of $11,500,000.” (Ex. I, pp. 7/WDM Hotel0012 & 10/WDM Hotel0115). Ramsey’s report includes a West Des Moines Marriott Renovation Budget, and he indicates the renovation is estimated to being in the Fall of 2017 and end about January 2019. (Ex. I, p. 103/WDM Hotel0108). Amongst the highest costs, the budget includes a $4-million line-item for guest rooms and a $1.55-million line-item for guest bathrooms; this amounts to budgeted cost of approximately $25,350 per room. At a total estimate cost of $11.5 million, the renovation was estimated to cost $52,511 on a per-room basis.

Guest rooms were targeted to have “new everything.” Some of the key PIP elements included replacement/renovate multi-purpose surfaces, platform beds, walk-in showers, expand closets, hardwood floors with accent rugs, wall-mount 55-inch HDTVs, and customized artwork. Notably, and in contrast to Kinseth’s testimony, the report states the owner was intending to replace case goods in the guest rooms, which was not required by the PIP. (Ex. I, p. 103/WDM Hotel0108).

Ramsey testified that he considered the subject property’s PIP because properties go through life cycles and the subject property was at a point where it needed upgrading and updating. He stated the Marriott franchise is essential to the subject property’s value, and it was his understanding some major improvements were needed in order for the franchise to be maintained and extended on into the future.

In estimating revenue and expenses, Ramsey concluded an occupancy rate at 67.7%, an average daily room rate of $130.87, and the revenue per available room (RevPAR) at $88.60 (Ex. I, p. 106/WDM Hotel0111). Ramsey deducted 8.3% as a franchise fee expense, and 3% as a management fee. (Ex. I, p. 111/WDM Hotel0116).

Ramsey’s appraisal report was not completed for ad valorem purposes. Therefore he included the real property taxes as part of his NOI analysis and did not load the capitalization rate. Ramsey concluded an NOI of $2,109,057. (Ex. I, p. 117/WDM Hotel0122).

After considering surveys, a mortgage equity analysis, and market extraction, Ramsey determined an overall capitalization rate of 10.75%. (Ex. I, pp. 117-121/WDM Hotel0122-0126). He stated market extracted overall capitalization rates varied from 6% to 12.8%, noting they are generally higher when properties age and when there is an anticipated sizeable PIP. (Ex. I p.113/WDM Hotel0118).

Ramsey concluded $19,600,000 (rounded) as the subject property's market value under the income approach, which included real estate taxes as an expense.

D. Reconciliation

Giving all consideration to the income approach, Ramsey determined a value of $19,600,000 for the subject property. (Ex. I, p. 118/WDM Hotel0123 & 121/WDM Hotel0126). He then allocated $560,000 to personal property. He depreciated the allocated cost new of $25,470 per room by 90% to arrive at this opinion. On cross examination, he testified that his depreciation estimate was not based on the physical condition of the FF&E at the time, but because Marriott's standards needed to be met.

Ramsey reported the intangible interests (franchise value) were based on the difference between the total renovation costs, as required by the PIP, and the estimated additional value created by personal property expenses. (Ex, I, p. 118/WDM Hotel0123). Assuming a 20-year franchise, Ramsey concluded a franchise value of $700,000. He testified that the figure represented the value of an assembled workforce and the in-place Marriott franchise. His final conclusion of "as is" market value of the real estate only is $18,340,000 as of May 2017. (Ex. I, p. 121/WDM Hotel0126).

Kenney Appraisal

Kenney believes the subject is a valuable piece of real estate due to its excellent location, area demographics, traffic counts, and close proximity to an I-80 interchange. (Ex. H, p. 77). He noted Smith Travel Research[3] classified the subject property as an "Upper Up-scale" hotel. (Ex. H, p. 115).

[3] A national hotel research firm that segments the hotel industry into a series of competing groups based on the actual, system-wide average room rates of the major chains.

According to Kenney, the subject property was in average condition and the FF&E in reasonably good shape at the time of his inspection, but he felt some aspects of the subject property could be made more attractive to millennials. He reported the subject property "is not typical of today's top quality design and construction standards as suggested by the extensive PIP renovation to be undertaken in 2018." (Ex. H, p. 96). When questioned, Kenney testified that the PIP would amount to a capital cost that would likely drive down the sales price. He stated its highest, best, and most profitable use is its present use or continued use as a full service hotel utilizing the existing improvements. (Ex. H, p. 105).

A. Sales Comparison Approach

Kenney acknowledged Iowa law prefers the sales comparison approach to value. He testified that he had enough information to consider this approach, as best he could, but conceded in his reconciliation that "for properties similar to the subject property, the Income Approach is primary." (Ex. H, p. 153). He further noted that "top quality, investment-grade hotel properties do not sell that frequently." (Ex. H, p. 112).

The following table summarizes Kenney's five recent hotel sales. (Ex. H, p. 128).

Sale	Address	Sale Date	Guest Rooms	Real Estate Sale Price	SP/Room	OAR[4]
SP	Marriott, WDM	Jul-17	219	NA	NA	NA
1	Marriott Courtyard, WDM	Jul-17	102	$12,995,000	$127,402	NA
2	Marriott Downtown, DSM	Dec-16	415	$29,410,000	$ 70,867	12.80%
3	Hyatt Place Downtown, DSM	Oct-16	93	$15,311,111	$164,636	9.00%
4	Hampton Inn, Fleur Dr, DSM	Feb-15	120	$10,400,000	$ 86,667	11.30%
5	Des Lux Hotel, DSM	Dec-13	51	$ 3,270,000	$ 64,118	NA

Kenney noted Sale 1 has half the number of guest rooms as the subject property. He stated it was included because it also is located in West Des Moines, but acknowledged it is not in a premier location like the subject property. Kenney testified that he recognized Sale 2 was not an ideal comparable, as it has about twice as many guest rooms, and only half the personal property value per room as the subject property. Sale 3 is significantly smaller than the subject property, with only 93 guest

[4] Overall Capitalization Rate

rooms and minimal meeting space, but Kenney indicated it is more modern than the subject, which he believes its aim is to attract millennials. Kenney noted Sale 4 is also not an ideal comparable due to its lack of meeting room space, but he included it because it is located near the Des Moines International Airport. Lastly, Kenney stated Sale 5 is a small independent boutique hotel with classy features, a bar and lounge, a business center, a small meeting room, but no pool.

Kenney considered quantitative adjustments for differences between the comparable properties and the subject property but did not report line adjustments. In justifying his use of overall adjustments, he stated the adjustments were based on his professional judgment and he considered all aspects when arriving at each sale's overall adjustment. Without context PAAB is unable to ascertain the reasonableness of Kenney's adjustments.

Kenny's real estate value ranged from $83,353 to $131,708 per room, with a median of $91,000 after adjustments. (Ex. H, p. 128-129). He concluded a market value of $90,000 per guest room, or $19,700,000 (rounded) for the subject's real property under the sales comparison approach.

B. Cost Approach

Kenney did not develop the cost approach or provide an opinion of the subject property's site value. He testified that he considered the approach but does not believe it is relevant.

C. Income Approach

The expenses in Kenney's reconstructed operating statement included $298,988 for management fees, $821,000 for franchise fees and about $200,000 for FF&E reserve. (Ex. H, p. 145). Kenney concluded an NOI of $2,541,616.

Kenney estimated his capitalization rate after consideration of investor surveys, comparable sales, and the mortgage equity analysis in arriving at his opinion. Kenney testified that the surveys show limited service hotels have higher capitalization rates than full service hotels. He determined a range of loaded capitalization rates between 11.61% and 13.00%. (Ex. H, pp. 152). From this range, he concluded a loaded capitalization rate of 12.10%. (Ex. H, p. 152). Kenney reported a tax rate constant of

3.61%, indicating he did not adjust it downward for the 10% commercial property tax rollback, which implies a base rate of about 8.5%. Kenney concluded a value of $21,005,090 by the income approach.

Kenney believed the FF&E in place was nearly fully depreciated, noting this was evidenced by the subject property's PIP which called for "replacement of all the significant personal property items." (Ex. H, p. 152). Kenney's report indicates on-site personnel informed him the renovation "began in April 2018 and is expected to end in about January, 2019." (Ex. H, p. 143). He was not aware of any subsequent modifications to the PIP.

After determining an RCN of $25,470 per room for the existing FF&E, he depreciated it at 90% and arrived at a conclusion of value of $560,000 for the FF&E in place. In addition in to consulting Ramsey's report, Kenney testified that he relied on MARSHALL VALUATION SERVICE and his own experience to arrive at his opinion of the correct depreciation. When asked if his opinion of depreciation would change if he were told the FF&E had 5 to 6 years of remaining life, he noted the 90% depreciation had less to do with the physical condition of the subject property's FF&E, opining the market standard for the subject hotel required the renovation to meet Marriott standards and obtain the best rates and occupancy.

Because he relied on the Rushmore approach (or management fee method), Kenney testified that he did not subtract a business value from his final conclusion, as it was considered in his analysis when he deducted management and franchise fees in his reconstructed income approach.[5] Moreover, he does not see those deductions in the market or allocations for business value on declarations of value. He noted he studied this issue and participated in the publication of an article from the International Association of Assessing Officers, which was included with his appraisal. (Ex. H, Appendix G, pp. 307-362). Allocating $560,000 for the value of the FF&E, Kenney concluded the subject property's real estate value at $20,400,000 (round) under the income approach.

[5] INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS, UNDERSTANDING INTANGIBLE ASSETS IN REAL ESTATE: A GUIDE FOR REAL PROPERTY APPRAISAL PROFESSIONALS (2017).

D. Reconciliation

Kenney relied on the sales comparison and income approaches, reconciling to a final opinion of the subject property's January 1, 2017 market value of $20,000,000. (Ex. H, p. 153).

Analysis & Conclusions of Law

WDM Hotel argues the subject property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1)(b) (2017).

1. General Statements of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2017). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3)(b)(1). This burden may be shifted by offering competent evidence from two disinterested witnesses that the market value of the property is less than the market value determined by the assessor. *Id*. Even if the burden is not shifted, the taxpayer may still prevail based on a preponderance of the evidence. *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986). Here, the taxpayer has not shifted the burden of proof because it did not offer evidence from two disinterested witnesses showing the assessment is excessive.

In Iowa, property is assessed for taxation purposes following Iowa Code section 441.21. Iowa Code subsections 441.21(1)(a-b) require property subject to taxation to be assessed at its actual value, or fair market value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 778 (Iowa 2009).

> *"Market value"* is defined as the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property.

§ 441.21(1)(b).

In determining market value, "[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at market value." *Id*. Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real property in Iowa. *Id*.; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779 n. 2; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). "[A]bnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value . . . ." § 441.21(1)(b). Abnormal transactions include, but are not limited to, foreclosure or other forced sales, contract sales, discounted purchase transactions, or purchases of adjoining land or other land to be operated as a unit. *Id*.

The first step in this process is determining if *comparable* sales exist. *Soifer*, 759 N.W.2d at 783. If PAAB is not persuaded as to the comparability of the properties, then it "cannot consider the sales prices of those" properties. *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). "Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court." *Id.* at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).

"The burden of persuasion rests on the party seeking to show that market data cannot readily establish market value before proceeding to the other-factors approach to valuation." *Wellmark, Inc. v. Polk Cnty. Bd. of Review*, 875 N.W.2d 667, 682 (Iowa 2016). Where PAAB is convinced comparable sales do not exist or cannot *readily* determine market value, then other factors may be used. § 441.21(1)(b); *Compiano*, 771 N.W.2d at 398 (citing *Soifer*, 759 N.W.2d at 782); *Carlon Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997); § 441.21(2). If sales cannot readily establish market value, “then the assessor may determine the value of the property using the other uniform and recognized appraisal methods,” such as income and/or cost. § 441.21(2).

[A]ssessors are permitted to consider the use of property as a going concern in its valuation. *Riso v. Pottawattamie Cnty. Bd. of Review*, 362 N.W.2d 513, 517 (Iowa 1985). However, the goodwill or value of a business that uses the property, as distinguished from the real estate value of the property, shall not be considered. § 441.21(2). Furthermore, personal property is not subject to assessment or property taxation. § 427A.2.

1. Summary of the Evidence of the Subject Property’s Value

Three appraisals were offered for consideration. WDM Hotel submitted an appraisal completed by Don Vaske of Frandson & Associates, L.C., Des Moines, Iowa. (Ex. 6). The Board of Review submitted appraisals by Ranney Ramsey of Nelsen Appraisal Associates, Inc., Urbandale, Iowa and Mark Kenney of American Valuation Group, Inc., Lansdale, Pennsylvania. (Exs. I & H). The following table summarizes the appraisers’ approaches to value and their respective conclusions. (Exs. 6, I & H).

Appraiser	Sales Approach	Income Approach	Cost Approach	Reconciled Value[6]	Real Estate Allocation	FF&E Allocation	Franchise Allocation
Vaske	NA	$18,080,000	$17,850,000	$17,750,000	$14,950,000	$2,300,000	$500,000
Ramsey	$19,250,000	$19,600,000	NA	$19,600,000	$18,340,000	$560,000	$700,000
Kenney	$19,700,000	$20,400,000	NA	$20,000,000	$20,000,000	$560,000	NA

Essentially, all of the appraisers indicated that it was difficult to find comparable sales for the subject property. Vaske noted that he found the sales comparison approach to be an unreliable indication of the subject property’s value and did not develop it. Instead, despite completing the income and cost approaches, he ultimately relied on the subject property’s actual net purchase price. Ramsey and Kenney both developed the sales comparison approach but neither gave it primary consideration in

[6] The appraisers approached their reconciliation differently. From their reconciled values, Vaske and Ramsey made allocations for the real estate, FF&E, and the franchise. Conversely, Kenney deducted the FF&E value prior to reconciling to his final conclusion. Thus, his reconciled value represents real estate only.

their reconciled conclusions. Based on the experts' collective testimony indicating difficulty in finding comparable sales and the market's reliance on the income approach, we consider the other approaches to value.

Vaske is the only appraiser to develop the cost approach, although he gave it no consideration in his final opinion of value. Kenney conceded in his reconciliation that "for properties similar to the subject property, the income approach is primary." Ramsey also declined to develop the cost approach.

With the exception of Vaske, the appraisers gave primary consideration to the income approach to value. Generally, all three appraisers' income and operating expenses were very similar, as were their NOIs. Ramsey's NOI is an exception because he expensed taxes as his appraisal was not completed for ad valorem purposes. Removing this expense brings Ramsey's NOI in line with the others.

Differences exist amongst the appraisers' capitalization rates applied in the income approach. Vaske and Ramsey's concluded capitalization rates of 10.75%. Both identified that aging properties and full-service hotels increase risks and therefore result in higher capitalization rates. Ramsey also considered the sizeable PIP as part of his rationale in selecting a capitalization rate. In comparison, Kenney's ultimately relied on a loaded capitalization rate of 12.10%, which implies a base rate of about 8.5%, which is the lowest in the record.

The other major difference in the appraisers' conclusions lie in their opinions of depreciated FF&E, and whether its value and franchise fees need to be deducted from the conclusions in order to arrive at an opinion of value for the subject's real property only.

Vaske concluded a contributory value of $2,300,000 for the FF&E based on depreciated costs. In his opinion the FF&E has additional useful and economic life and he chose to depreciate it by 65%. However, Vaske made no mention of the existing PIP. In Ramsey's opinion, given the extensive PIP that included a $25,000 per room renovation budget exclusive of any public area renovation costs, the existing FF&E at the time of sale had minimal to no economic life remaining and he depreciated it by 90%. Kenney agreed with Ramsey's opinion of the depreciated FF&E.

All of the appraisers included franchise fees as expenses in determining their NOI. Yet both Vaske and Ramsey allocated franchise values of $500,000 and $700,000 respectively from their opinions of value while Kenney did not subtract a value for the franchise from his final opinion of value. Kenney asserted it was already considered through his deduction of management and franchise fees in the development of the NOI. Kenney contends expensing and then making allocations is akin to double counting.

2. Analysis of Evidence

Based on the record no one appraisal is without its faults. WDM Hotel bears the burden of proof. However, we are not persuaded it has shown the subject property is assessed for more than authorized by law.

WDM Hotel relies on Vaske's report, which concluded a value for the real estate of only $14,950,000. He completed the sales comparison and income approaches, which both came in higher than the subject's sales price. Nonetheless, Vaske essentially gave all weight to the subject's sales price. Although it is a matter to be considered, the subject's sales price does not conclusively establish market value. *Riley v. Iowa City Bd. of Review*. 549 N.W.2d 289, 290 (Iowa 1996).

The primary fault with Vaske's opinion is his complete reliance on the subject's purchase price while ignoring an important factor relative to the sales price negotiations – the PIP. The evidence shows the PIP that existed at the time of sale included planned expenditures totaling roughly $11.5 million, with some items required to be replaced as soon as June 2018. In a transaction between experienced and knowledgeable parties, as occurred here, we think the PIP would have had a material impact on the resulting sales price. Vaske's FF&E depreciation may or may not accurately reflect the physical condition and economic value of the FF&E at the time of his inspection in February 2018, but that is not at issue. Here, he failed to account for the economic value of the FF&E at the time of sale by ignoring the effect of the PIP in place on the sales price. We note the PIP is not mentioned once in Vaske's appraisal report.

In addition to the appraisers' estimates of FF&E value, we note the record also includes two other value indications for the FF&E as of the time of sale. The first is a sale price allocation done by Ryan, which estimated a value of the FF&E at $1,510,000. (Ex. 9). The Ryan report contains very little information or data to support the allocations at which it arrives. Moreover, Kinseth testified that he did not find the personal property allocation reliable. The second indication of the FF&E value is the warranty deed allocation, which suggests $3,840,000 of the consideration paid by WDM Hotel was for personal property. (Ex. 11). Although Kinseth testified that to his belief this allocation was more reliable, the Appraisal Institute indicates caution is necessary when relying on allocations to real property, personal property, and intangibles agreed to by a buyer and seller. It states, "those allocations may be based on income tax issues or other considerations and may not reasonably reflect the actual value contribution of the various assets." APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 709 (14th ed. 2013). For this reason, and because of the evidence indicating the personal property was subject to relatively imminent replacement as a result of the PIP, we do not believe the FF&E allocation made at the time of the sale reflects the true value of the assets.

Aside from Vaske's inclusion of franchise fee expense in his income approach, he made an additional deduction for the value of the Marriott flag. We can find, however, no support for his conclusion regarding the value of the Marriott flag. Neither his testimony nor his report explains how he arrived at his deduction. *See Riso v. Pottawattamie Cnty. Bd. of Review*, 362 N.W.2d 513 (Iowa 1985) ("plaintiffs were required to offer a sufficient factual basis for the opinions to take them out of the realm of mere speculation and conjecture."). For these reasons, we are not persuaded his appraisal results in a reliable opinion of the subject property's value as of January 1, 2017.

For their part, Ramsey and Kenney avoided the same error of logic that causes Vaske's report to be unreliable because they acknowledged the PIP's impact relative to the property's purchase. Ultimately, their conclusions support the current assessment.

Order

PAAB HEREBY AFFIRMS the Dallas County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

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Camille Valley, Presiding Officer

____
Karen Oberman, Board Member

Copies to:

Sarah Franklin for West Des Moines Hotel Associates by eFile

John Lande for Dallas County Board of Review by eFile