2016 BOARD OF REVIEW
VILLAGE OF PLEASANT PRAIRIE
JULY 7, 2016
9:00 A.M.

A Meeting of the Pleasant Prairie 2016 Board of Review was held on Thursday, July 7, 2016 and called to order at 9:00 a.m. Present were Board members Jill Sikorski, Lena Schlater, David Hildreth, Mark Riley, Bill Morris, Jim Bilotti (Alternate) and the Board's attorney, Tom Camilli. Also present were Rocco Vita, Village Assessor, Ed Judt, Deputy Village Assessor and Jane Romanowski, Village Clerk.

1. CALL TO ORDER

2. ROLL CALL

3. RECEIVE THE ASSESSMENT ROLL AND SWORN STATEMENTS FROM THE CLERK

Rocco Vita:

> In front of the Village Clerk and the Clerk of the Board of Review is the 2016 Assessment Roll for the Village of Pleasant Prairie. The affidavit has been signed by myself and as soon as the Clerk signs the affidavit, all the authority to change any assessment passes from our office to the Board of Review until the final day of these proceedings. As you are well aware, the 2016 Assessment Roll represents a revaluation year in the Village of Pleasant Prairie. The last revaluation occurred during 2014.

Jill Sikorski:

> Thank you.

Jane Romanowski:

> I have executed the affidavit.

Jill Sikorski:

> Thank you.

4. REVIEW NOTICES OF INTENT TO FILE OBJECTION AND COMPLETED OBJECTION FORMS

Jane Romanowski:

> On the agenda today, we have objection forms for Keith Kull, Kim Karry, Carlos Sierra and then Holiday Inn Express. There are a couple other matters the Board can deal with

at 2 p.m. or if we have extra time. The forms are all completed in their entirety and hearings can be held.

Jill Sikorski:

Thank you.

Jane Romanowski:

The first thing we need to address though is the 9:45 a.m. hearing for Keith Kull. Mr. Kull has requested a hearing by telephone. When I went to schedule his hearing for 9:45 a.m. he asked when does he call in and he didn't initially file the form so he has now filed the form requested his hearing be by telephone. As you can see by the form, he did not give a basis for his request. The form is completed as it should be except I do not see the basis for the request and it is up to the Board to decide if they would like to hear his 9:45 a.m. hearing today by telephone. In scheduling ahead with everybody's schedule, I did give him 48 hours' notice for hearing tomorrow if the Board decides not to grant his testimony by phone. That way we gave him plenty of time if you didn't grant it otherwise we would have to schedule the hearing into next week so a 48 hour notice was given. He was called and notified if the Board does not grant it, we have Friday at 9 a.m. but if the Board grants it we would be calling him at 9:45 a.m. this morning.

Jill Sikorski:

Do we have the ability to record his testimony?

Jane Romanowski:

We do have a telephone. I don't know how much of the testimony we could pick up.

Jill Sikorski:

But we are not 100% set up for telephone testimony and recording.

Jane Romanowski:

No and just as a point of order, every person who requested a packet received the Board of Review Rules and Procedures and the two Department of Revenue handouts as to procedures and guide to the property owner and appeals your assessments. Mr. Kull must have read through that a realized he could request this and then requested I send him a form and he sent it back. It is up to the Board to make that decision.

Jill Sikorski:

If I recall correctly, the state does require if someone proves disability and we have evidence of that, we must take their testimony by telephone.

Jane Romanowski:

Exactly.

Jill Sikorski:

Any discussion by the Board?

Tom Camilli:

Just for clarification, Madame Chairman, you are correct if someone has proven disability as attested to by a physician renounced to have had, the Board must allow telephonic testimony but in this case, it doesn't appear as if there is a disability here so the Board has discretion either to grant or deny based upon obviously the considerations with having to hear testimony over the telephone as opposed as to having the objector here and subject to examination and cross-examination first so the Board can weigh those factors as it sees fit to either grant or deny.

Jill Sikorski:

And I did want to mention also that this would be the first time I would be aware of if we decided to do that then I think we are creating a precedence so I don't know if that is a path we want to go down but I'll open it up for discussion

Lena Schlater:

Especially since there really is no basis for the request. You would tell him then at 9:45 we aren't going to take your case today he would be on for tomorrow?

Jane Romanowski:

I would call him after your decision. He is aware that if the Board did decide this that he has a hearing tomorrow at 9 a.m. and he received his 48 hour notice for tomorrow's hearing. I wasn't speaking on behalf of the Board, we were just trying to plan ahead to make sure that we gave him 48 hours' notice and that the Board was available for a hearing rather than going into next week.

Bill Morris:

If I could just to clarify, in other words, we have no really known basis of any kind of handicap that justifies it under the law.

Tom Camilli:

The objection form is filed with no basis for a request of this type.

Bill Morris:

Nothing. O.K.

Jill Sikorski:

Any other further discussion, questions, clarifications? Do you need a motion on that Jane?

Jane Romanowski:

Yes, we do. Motion and a second please.

Mark Riley:

I make the motion to deny a hearing by telephone.

Bill Morris:

I will second.

Jill Sikorski:

Roll Call.

RILEY MOVED TO DENY THE REQUEST OF KEITH KULL FOR A HEARING BY TELEPHONE; SECONDED BY MORRIS; ROLL CALL VOTE – SIKORSKI – AYE; SCHLATER – AYE; RILEY – AYE; HILDRETH – AYE; MORRIS – AYE; MOTION CARRIED 5-0.

Jill Sikorski:

Motion is carried. Any other business besides contacting Mr. Kull prior to our 10:15 a.m. hearing Jane?

Rocco Vita:

In consideration that Mr. Kull will not be appearing today at 9:45 a.m., our first hearing is at 10:15 a.m. with Kim Karry and then one at 11:00 a.m. scheduled for Mr. Sierra.

We could entertain the waivers right now.

Jill Sikorski:

That would be fine.

Rocco Vita:

It was scheduled for this afternoon at 2:00 p.m. but we have time now.

As you are aware from past hearings and past litigation, one of the property owners that has been coming to the Village for the last couple of years has a name of Team R N' B. They are the owner of the Famous Dave's restaurant. They first appealed their assessment in 2014 and they are appealing again this year. Because they appealed in 2014, you, the Board of Review, found in favor of the Village of Pleasant Prairie Assessor's Office. They subsequently filed a claim against the Village for excessive assessment so we are in pending litigation and it has always been our policy if we are in pending litigation, the legislature effect for 2015 created a law that allows the property owner to request to have their hearing waived and allow them to go to a higher appeal authority. In fact, I'll read the statute. Section 70.47(8m) of the Wisconsin Statutes states "The Board may, at the request of the taxpayer or the assessor, or at its own discretion, waive the hearing of an objection under sub. 8 or in a first class city under sub. 16 and allow the taxpayer to have the taxpayer's assessment reviewed under sub. 13" which is a higher appeal authority than the Board of Review.

Last year, we entertained a waiver from Walgreens and from Team R N' B and the Board approved those waivers and so those hearings were not held. We felt there wasn't a need for a hearing. And for 2016, Team R N' B again filed a waiver to bypass the local Board of Review hearing a go directly to a higher appeal authority. So that is on your agenda to make a decision upon. The Board decides whether to approve or deny the request for a waiver of a hearing.

Jill Sikorski:

Any questions or discussion?

Rocco Vita:

I would just like to point out there is an error on the form. The assessed values are incorrect and I guess this is simply the result of a law company being a clearinghouse and kind of an appeal mill. Let me give you an indication of what the assessed values are.

Jill Sikorski:

I think it is on the next form.

Rocco Vita:

Yes, instead of $867,000 it should be $2,194,200 and the property owner's opinion of value, the line below that, rather than $575,000 my guess is their opinion is $1,505,000 based upon the objection form.

Jill Sikorski:

Any discussion, questions?

Jane Romanowski:

The motion would have to be to sustain the Village Assessor's assessment and I would issue a Notice of Determination and if the Board approves the waiver of the hearing, then you would sign the waiver and I would send both of those forms today, certified mail.

Jill Sikorski:

Do we have a motion for the request to sustain the Assessor's assessment and approve the waiver?

Lena Schlater:

I'll make that motion.

Bill Morris:

I'll second.

Jill Sikorski:

Do we need a roll call vote on this Jane?

Jane Romanowski:

Yes we do because there is a Notice of Determination.

SCHLATER MOVED TO SUSTAIN THE 2016 ASSESSMENT FOR PROPERTY OWNED BY TEAM R N' B WISCONSIN, LLC FOR PROPERTY LOCATED AT 9900 77TH STREET IDENTIFIED AS TAX PARCEL NO. 91-4-122-082-0202 IN THE AMOUNT OF $2,194,200 AND APPROVE THE REQUEST FOR WAIVER OF THE BOARD OF REVIEW HEARING; SECONDED BY MORRIS; ROLL CALL VOTE - SIKORSKI – AYE; SCHLATER – AYE; RILEY – AYE; HILDRETH – AYE; MORRIS – AYE; MOTION CARRIED 5-0.

Jane Romanowski:

The Notice of Determination and I'll have the Chairperson sign the Waiver right now, will be sent today by certified mail.

Jill Sikorski:

Are there any further waivers we need to consider today?

Rocco Vita:

Yes, Madame Chairperson.

Since the legislature gives the authority for the property owner, the assessor or the Board to request a waiver of a hearing and allow the property owner to advance directly to a higher appeal authority, the Village Assessor's Office is requesting the Board to waive the Board of Review Hearing for Carlos and Marilyn Sierra, Tax Parcel No. 93-4-123-203-0200. The basis for our request is first of all redundancy and the exact same issues in this appeal as present in the past appeal. The Board of Review decided in favor of the Village in the past appeal and Mr. Sierra appealed that to a higher appeal authority at that time. Here we have an instance where the circumstances have not changed. Our information will be almost identical to what it was in the past. The description and the wetlands and the property owner is exactly the same now as it has been in the past. His rights and abilities are the same as they have been in the past. Mr. Sierra is a rather confrontational person. In the last hearing, we had police here, we will have requested a police officer's attendance today. When we went to a higher appeal authority, a State Trooper was involved, and we scheduled a hearing for a secure room in a state office building and close to the beginning of that hearing Mr. Sierra contacted the state and actually held that hearing by phone. It relieved the state of a potential altercation.

So, my personal opinion is that is an opportunity for physical, bodily harm with Mr. Sierra but from an assessment perspective, my other opinion is that this a redundant hearing. You have voiced your decision at one time. His opinions are exactly the same. Our opinion has changed a great deal. Our value is less than half of what it was years ago prior to the recession but nonetheless, it remains the same.

Jill Sikorski:

So, how this would play out is if we decided to approve this waiver, he would come for his hearing . . .

Rocco Vita:

Well, the Clerk would contact him and tell him that there is no need to come – that you have waived the hearing and he is free to appeal it to a higher authority.

Jill Sikorski:

O.K. Any discussion on this? I don't know in the past if any of you have recalled Mr. Sierra attending past Boards of Review. I personally do remember him. We need a motion to act on the request of the Village Assessor's office request to waive the hearing for Mr. Sierra.

Bill Morris:

I would make that motion to waive the hearing and sustain the Village of Pleasant Prairie's assessment.

Lena Schlater.

Second.

MORRIS MOVED TO UPHOLD THE 2016 ASSESSMENT FOR THE VACANT PROPERTY OWNED BY CARLOS AND MARILYN SIERRA LOCATED ON LAKESHORE DRIVE, TAX PARCEL NO. 93-4-123-203-0200, IN THE AMOUNT OF $71,300 AND GRANT THE VILLAGE ASSESSOR'S OFFICE REQUEST FOR WAIVER OF BOARD OF REVIEW HEARING; SECONDED BY SCHLATER; ROLL CALL VOTE - ROLL CALL VOTE - SIKORSKI – AYE; SCHLATER – AYE; RILEY – AYE; HILDRETH – AYE; MORRIS – AYE; MOTION CARRIED 5-0.

Rocco Vita:

The second request the Assessor's Office has involves a property owned by Kim and Emily Karry, Tax Parcel No. 92-4-122-233-0199, located in the Village Green Heights Subdivision at 10098 Cooper Road. Again, we have presented the Karry's their sixth assessed value since they built the home and moved into the Village and this would be their third appeal of our value. So they have appealed the property at every opportunity they have had. Again, we are requesting this simply on the basis of redundancy. The issues remain the same and we asking the Board to consider to waive the hearing allow the Karry's to take this to a higher appeal authority and have a more definitive decision on his arguments.

Jill Sikorski:

Any questions or discussion from the Board? Then a motion is in order to act on the Assessor's Office request to waive the hearing of Kim and Emily Karry.

Mark Riley:

I'll make that motion.

Bill Morris:

I'll second.

RILEY MOVED TO UPHOLD THE 2016 ASSESSMENT FOR THE PROPERTY OWNED BY KIM AND EMILY KARRY FOR PROPERTY LOCATED AT 10098 COOPER ROAD, TAX PARCEL NO. 92-4-122-233-0199, IN THE TOTAL AMOUNT OF $400,100 AND GRANT THE VILLAGE ASSESSOR'S OFFICE REQUEST FOR WAIVER OF BOARD OF REVIEW HEARING; SECONDED BY MORRIS; ROLL CALL VOTE - ROLL CALL VOTE - SIKORSKI – AYE; SCHLATER – AYE; RILEY – AYE; HILDRETH – AYE; MORRIS – AYE; MOTION CARRIED 5-0.

Jill Sikorski:

Both requests have been approved and the Clerk will contact the Sierra's and the Karry's. Any other waivers or business to consider?

Rocco Vita:

Not that I am aware from the Assessor's Office, Madame Chairperson.

Jill Sikorski:

Then we can go into recess until this afternoon.

Rocco Vita:

I think the Board should remain until the Clerk confirms she has contacted both the Sierra's and the Karry's with the Board's approval of the Assessor's request to waive those two hearings and when you come back at 2 p.m., then the Board would have two hours in.

Tom Camilli:

The only concern potentially is you could have an objector coming during the first two hours to file a claim so the Board needs to remain in session until 11 a.m.

Jane Romanowski:

I'll go contact the property owners to cancel their hearings.

5. HEARINGS

a. 9:45 a.m. - Keith Kull (**As noted above, the Board denied Mr. Kull's request for a hearing by telephone. The Village Clerk notified Mr. Kull by telephone of the Board's decision and a hearing will take place on July 8, 2016 at 9 a.m.)**

b. 10:15 a.m. - Kim Karry **(As noted above, the Board approved the Village Assessor's request to waive the Board of Review Hearing and the Village Clerk notified the property owner's representative on file by telephone of this decision.)**

c. 11:00 a.m. - Carlos Sierra **(As noted above, the Board approved the Village Assessor's request to waive the Board of Review Hearing and the Village Clerk notified the property owner by telephone of this decision.)**

Jill Sikorski:

It is now 11:02 a.m. Earlier the Board acted on the 2 p.m. agenda items of waivers and other business. The 2016 Board of Review will recess until 2:30 p.m. today for the next hearing for 2016 Board of Review.

Jane Romanowski:

And for the record, the Board has been in session since 9 a.m. this morning. The Board has completed the two-hour mandatory meeting time as required by law.

HEARING - 2:30 p.m. - Holiday Inn Express

Jill Sikorski:

It is 2:30 p.m. and the 2016 Village of Pleasant Prairie Board of Review is back in session. The Village Clerk will take roll call since we were in recess.

Present were Board members Jill Sikorski, Lena Schlater, David Hildreth, Mark Riley, Bill Morris, Jim Bilotti (Alternate) and the Board's attorney, Tom Camilli. Also present were Rocco Vita, Village Assessor, Ed Judt, Deputy Village Assessor and Jane Romanowski, Village Clerk.

Jill Sikorski:

The Clerk will introduce the first case for hearing.

Jane Romanowski:

We have a completed objection form for DEV Holdings Kenosha, LLC, d/b/a Holiday Inn Express. The property address is 7887 94th Avenue. The total assessment is \$6,630,300. The opinion of the assessment value in DEV Holdings' opinion would be \$4,163,300. Section 3 – the reason for the objection – I will read the narrative they have provided:

- Assessor's proposed increase amounts to a 62% increase in assessed values. Owner's net operating income (NO) has not increased 62% nor have property values increased by 62%.
- Using subject property's NO of $457,955 and applying the industry standard capitalization rate of 11 results in the owner's proposed valuation for the subject property at $4,163,227. This valuation is consistent with the comparable hotels in the area and results in a per room assessment of $51,397 which is on the high end of per room assessments for the area (See Chart 2016 Assessment Computation of all comparable hotels) attached. Note: comparison is based on a branded, three-four story hotel with a pool (except for the Super Eight) with similar amenities and age.
- A comparison of all Holiday Inn Express Hotels in Southeast Wisconsin demonstrates that the Assessor's valuation for the subject property is 51% higher than the average assessed valuation for all other Holiday Inn Express Hotels in Southeast Wisconsin (See Chart 2016 Assessments for all Holiday Inn Express Hotels Southeast Wisconsin). And, of greater significance, on a per room basis, the Assessor's valuation is a 77% increase in the per room assessed value over the other Holiday Inn Hotels in Southeast Wisconsin.
- The Assessor's propped per room valuation of $81,855, which is without any basis or rationale, exceeds the aver Holiday Inn Express per room assessed valuation by 77% ($81,855 vs. $46,143). The Assessor's per room valuation of the subject property exceeds the per room valuation of comparable hotels in the area by $120% ($81,855 vs. $37,120). The subject property's per room assessment for 2015 of $50,617 already exceeds the average per room assessment for all Holiday Inn Express Hotels in Southeast Wisconsin: $50,617 vs. $46,143. The Subject property's 2015 assessment exceeds the local comparable hotel average for 2016 as well: $50,617 vs. $37,120. The subject property owner's proposal for 2016 of $51,397 per room only slightly increases the discrepancy unlike the Assessor's valuation which almost doubles the discrepancy.

Section 4 – the property was acquired – it was purchased May 9, 2009 for $5,342,000. There were some changes made to the rooms in 2010 for a value of $100,000 – new carpets, painted rooms and wall coverings on hallways. The property has not been listed for sale in the last five years and the property was not appraised within the last five years.

Jill Sikorski:

Thank you. I will now ask the Clerk to swear in all participants who will be providing testimony today, including owners, their representatives and Village staff.

The Village Clerk swore in the following participants:

Rocco Vita – Village Assessor – 9915 39th Avenue.
Edward Judt – Deputy Assessor – 9915 39th Avenue.
Attorney Amy Seibel, outside counsel for the Assessor's Office for the Village of Pleasant Prairie.
Attorney M. Nicol Padway, I will be appearing on behalf of my client, DEV Holdings.

J.T. Patel, Owner of the property.

Jill Sikorski:

The Board of Review wants you to understand that under state law, the Board of Review is required to uphold the Assessor's valuation of your property as being correct unless, by your testimony, can show the Assessor's valuation to be incorrect. In other words, the burden of proof is on you as the taxpayer. Do you understand that?

J.T. Patel:

I do.

Jill Sikorski:

Thank you. We will ask the objector to present their testimony first. Then the Assessor will ask questions and we will open it up to Board members to also ask questions of the objector.

Attorney Padway:

Would you please again state your name for the record.

J.T. Patel:

J.T. Patel.

Attorney Padway:

And what is your relationship to DEV Holdings.

J.T. Patel:

I am a member of the corporation.

Attorney Padway:

And that corporation owns the hotel which is the subject of this Board of Review proceeding. Is that right?

J.T. Patel:

That is correct.

Attorney Padway:

It's the actually the operating entity.

J.T. Patel:

Correct.

Attorney Padway:

DEV Holdings owns it.

J.T. Patel:

Yes.

Attorney Padway:

And what is the operating entity?

J.T. Patel:

OM Hospitality.

Attorney Padway:

And are you a member of that entity as well?

J.T. Patel:

I am the president.

Attorney Padway:

And was this property built?

J.T. Patel:

1999.

Attorney Padway:

And when did you acquire it?

J.T. Patel:

May of 2009.

Attorney Padway:

And the acquisition price of $5,342,000 – did that include goodwill?

J.T. Patel:

It did.

Attorney Padway:

And so this property is 17 years old, is that right?

J.T. Patel:

Correct.

Attorney Padway:

And what is the current assessment?

J.T. Patel:

$4.1 million.

Attorney Padway:

And for how long has it been $4.1 million?

J.T. Patel:

Two years.

Attorney Padway:

And how many rooms are in this hotel?

J.T. Patel:

81.

Attorney Padway:

What is the current per room assessed valuation?

J.T. Patel:

$50,617.

Attorney Padway:

And the proposed assessment is $6,630,000?

J.T. Patel:

That is correct.

Attorney Padway:

And what would be the proposed per room assessment at that rate?

J.T. Patel:

$81,852.

Attorney Padway:

Now, we have prepared some information for the hearing today relating to other, first of all, other Holiday Inn Express hotels in southeast Wisconsin, is that correct?

J.T. Patel:

That is correct.

Attorney Padway:

How many copies do you need for the Board?

Jane Romanowski:

Everyone here needs a copy. For the record, we will label this as Exhibit 1.

Attorney Padway:

Thank you. Showing you what we have marked for identification as Exhibit 1, I'll ask if you can tell me what this document consists of.

J.T. Patel:

These are various Holiday Inn Express's within the southeastern Wisconsin market, including photographs.

Attorney Padway:

So, for each one, you have included a photograph of the specific hotel?

J.T. Patel:

Correct.

Attorney Padway:

And, how did you obtain the information for this chart?

J.T. Patel:

I either visited a website, if they had it available, or I called the Assessor and asked for the information.

Attorney Padway:

And, this chart indicates first the location for each Holiday Inn Express, is that correct?

J.T. Patel:

Yes.

Attorney Padway:

It shows the exact address for each Holiday Inn Express?

J.T. Patel:

Correct.

Attorney Padway:

It shows the year that they were built, is that right?

J.T. Patel:

Yes.

Attorney Padway:

It shows the lot size or acreage?

J.T. Patel:

Correct.

Attorney Padway:

It shows the number of rooms in each hotel.

J.T. Patel:

Yes.

Attorney Padway:

It shows the assessed value for 2016, is that correct?

J.T, Patel:

Correct.

Attorney Padway:

Both land, buildings and total for each hotel.

J.T. Patel:

Yes.

Attorney Padway:

And then you have calculated a per room value for each hotel, is that right?

J.T. Patel:

Yes.

Attorney Padway:

And below that you have the subject that is your property on 94th Avenue, is that right?

J.T. Patel:

Yes.

Attorney Padway:

So the members of the Board can compare, essentially, your current assessment of $6,630,300 as to all of the Holiday Inn Express's, is that right?

J.T. Patel:

That is correct.

Attorney Padway:

Is there anything unique about the construction of these Holiday Express hotels?

J.T. Patel:

There's nothing unique – no.

Attorney Padway:

Are they all constructed basically to the same specifications – similar designs?

J.T. Patel:

Some are designed – room sizes, amenities, would be the same.

Attorney Padway:

And they all operate under the same Holiday Inn Express brand, is that right?

J.T. Patel:

Correct.

Attorney Padway:

And what is the average per room assessment for all Holiday Inn's without your property included, the assessment?

J.T. Patel:

Without it, it is $46,143.

Attorney Padway:

And what was the 2015 assessment for your Holiday Inn Express?

J.T. Patel:

$50,617.

Attorney Padway:

And you are proposing an assessment of $51,397 on a per room basis, is that correct?

J.T. Patel:

Correct.

Attorney Padway:

And the Assessor's proposed per room assessment is what?

J.T. Patel:

$81,855.

Attorney Padway:

Now, this also reflects a sale of a Holiday Inn Express in New Berlin that occurred in 2013, is that right?

J.T. Patel:

That is correct.

Attorney Padway:

And what was that sale price?

J.T. Patel:

$4.15 million.

Attorney Padway:

And you are in part relying on this exhibit to demonstrate that the assessed value of $81,852 per room is basically almost 80% higher than the current assessment, is that right?

J.T. Patel:

That is correct.

Attorney Padway:

As we turn the first page, what is that a picture of?

J.T. Patel:

That is the Holiday Inn Express in New Berlin that did sell in 2013.

Attorney Padway:

How does that construction compare to your hotel?

J.T. Patel:

The same.

Attorney Padway:

And the next Holiday Inn Express?

J.T. Patel:

That is in Brown Deer.

Attorney Padway:

And how does that construction compare to your Holiday Inn?

J.T. Patel:

It would be the same.

Attorney Padway:

Then the Germantown Holiday Inn Express, how does that construction compare to your hotel?

J.T. Patel:

The only difference is that it is a two-story hotel.

Attorney Padway:

And yours is . . .

J.T. Patel:

Three.

Attorney Padway:

But in terms of room size, construction materials, amenities . . .

J.T. Patel:

It is the same.

Attorney Padway:

The Holiday Inn Express at the Milwaukee airport?

J.T. Patel:

Correct.

Attorney Padway:

And how is that construction?

J.T. Patel:

It is the same.

Attorney Padway:

The Holiday Express in Racine . . .

J.T. Patel:

The same construction.

Attorney Padway:

And the Holiday Inn Express in Sheboygan, how is that construction compared to yours?

J.T. Patel:

> That would be the same.

Attorney Padway:

> The Holiday Inn Express in Watertown?

J.T. Patel:

> Again, the same.

Attorney Padway:

> And then the Holiday Inn Express – you have conversion from a Country Inn & Suites in Deerfield, Illinois – why did you include that?

J.T. Patel:

> To show that the brand doesn't – the building used to be Country Inn & Suites and speaking to the Assessor, he had told me that the building attributed to why brand picked it and I wanted to show that this Country Inn & Suites, which is in Deerfield, about 30 minute drive south of us, is a Holiday Inn Express which is the exact same building as the Country Inn & Suites in Kenosha.

Attorney Padway:

> Then you have the Holiday Inn Express, Madison Central . . .

J.T. Patel:

> Yes.

Attorney Padway:

> And that is the same construction?

J.T. Patel:

> No, that was built last year, superior construction.

Attorney Padway:

> That was built in 2015?

J.T. Patel:

Correct.

Attorney Padway:

And that has an assessed value of $6,182,000?

J.T. Patel:

That is correct.

Attorney Padway:

Built 17 years after your hotel.

J.T. Patel:

Correct.

Attorney Padway:

And it has a lower assessment than what is being proposed by the Assessor for the municipality.

J.T. Patel:

Yes.

Attorney Padway:

And how many stories is that?

J.T. Patel:

That is four stories.

Attorney Padway:

And yours is . . .

J.T. Patel:

Three.

Jane Romanowski:

The handout just distributed by Attorney Padway will be Exhibit 2.

Attorney Padway:

Mr. Patel, I have handed you what we marked for identification as Exhibit 2 and ask if you can identify that document.

J.T. Patel:

That is the assessment for all comparable hotels in the Kenosha County market.

Attorney Padway:

And again you've designated the municipality, is that right?

J.T. Patel:

Correct:

Attorney Padway:

The address for each hotel.

J.T. Patel:

Yes.

Attorney Padway:

The number of rooms for each hotel.

J.T. Patel:

Correct.

Attorney Padway:

The assessed value of the land for each hotel.

J.T. Patel:

Yes.

Attorney Padway:

The assessed value of the building for each hotel.

J. T. Patel:

Yes.

Attorney Padway:

The total valuation.

J.T. Patel:

Correct.

Attorney Padway:

And then the per room assessment.

J.T. Patel:

Correct.

Attorney Padway:

And how did you obtain the information for this exhibit?

J.T. Patel:

I had to call Kenosha and I called the Pleasant Prairie Assessor's Offices and spoke to the directly.

Attorney Padway:

And does this accurately reflect the per room values for all of the hotels with the exception of the Hampton Inn & Suites and the Radisson?

J.T. Patel:

Correct.

Attorney Padway:

And why did you exclude the Hampton Inn & Suites?

J.T. Patel:

Because they are also had a huge increase in their assessment for 2016.

Attorney Padway:

And what about the Radisson?

J.T. Patel:

Same thing.

Attorney Padway:

Now how does the average of all hotels in the area, without your hotel included, compare to the current assessment?

J.T. Patel:

It is almost double – about 65% higher.

Attorney Padway:

So it is $37,119 per room for all of the hotels in the area.

J.T. Patel:

Yes, excluding the Radisson and the Hampton Inn.

Attorney Padway:

And your hotel.

J.T. Patel:

Correct, excluding that also.

Attorney Padway:

And your hotel would actually be more than double because the Assessor's proposed assessed value is $81,852.

J.T. Patel:

Correct, yes.

Attorney Padway:

And you also calculated the average for Pleasant Prairie without your hotel included?

J.T. Patel:

That is correct and also excluding the Hampton Inn and the Radisson.

Attorney Padway:

And that is $34,798?

J.T. Patel:

Correct.

Attorney Padway:

Now, we also did the calculation where we included your assessment and even with the average of all with your high assessment in, what is the average?

J.T. Patel:

$43,510.

Attorney Padway:

And with respect to Pleasant Prairie, the average including your assessment at the Assessor's value is how much?

J.T. Patel:

$50,483.

Attorney Padway:

Now, do you have any information about the occupancy rates of these different hotels?

J.T. Patel:

I do not.

Attorney Padway:

Is there some other feature about this chart that you feel information that’s important to advise the Board of Review about construction differences or . . .

J.T. Patel:

As far as construction differences, possibly the Super 8 and LaQuinta may have some differences in construction. The LaQuinta is a two-story property. The Super 8 is an economy property but it is three stories. As far as differences in construction with the Candlewood Suites, which is only I think built in 2010, so it is about ten years newer than my property, the Country Inn & Suites in Kenosha, the construction would be exactly the same. Also demonstrated by the fact that the Holiday Inn Express was converted to that from a Country Inn & Suites in Deerfield and the Comfort Inn & Suites, again, three stories, 72 room suite property built I believe in 1998 but the construction would be the same.

Attorney Padway:

What about the Best Western?

J.T. Patel:

The Best Western, I would say somewhat similar construction also but it is older.

Attorney Padway:

When was that built?

J.T. Patel:

I don’t have the exact year but it seems like the ‘80’s, the late ‘80’s possibly.

Jane Romanowski:

The next handout will be labeled Exhibit 3.

Attorney Padway:

Now, Mr. Patel, I have handed you what we have marked for identification as Exhibit 3 and ask if you can tell me what that chart consists of.

J.T. Patel:

The chart consists of sales in the last few years that I can find through my research.

Attorney Padway:

Sales of what.

J.T. Patel:

Hotels that are comparable.

Attorney Padway:

So you have on this chart listed how many different sales in the area.

J.T. Patel:

I have nine.

Attorney Padway:

And the most recent sale is in 2016, is that correct?

J.T. Patel:

That is correct.

Attorney Padway:

And that would be the Best Western Milwaukee Airport hotel?

J.T. Patel:

That is correct.

Attorney Padway:

And you have listed on this chart the municipality where the hotel is located.

J.T. Patel:

Correct:

Attorney Padway:

You have listed the address.

J.T. Patel:

Correct.

Attorney Padway:

The number of rooms.

J.T. Patel:

Correct.

Attorney Padway:

The date of sale.

J.T. Patel:

Correct.

Attorney Padway:

The sale price.

J.T. Patel:

Correct.

Attorney Padway:

And the per room value on a sale basis, correct?

J.T. Patel:

Correct.

Attorney Padway:

And with respect to the most recent, the Best Western Hotel at the airport, how many rooms is that?

J.T. Patel:

140 rooms.

Attorney Padway:

And the date of the sale was this year in May?

J.T. Patel:

Correct.

Attorney Padway:

The price. . .

J.T. Patel:

$7 million.

Attorney Padway:

The per room value based on the sale.

J.T. Patel:

$50,000.

Attorney Padway:

And then the next sale that I see is in 2015 in June, is that right?

J.T. Patel:

Correct.

Attorney Padway:

That was a Country Inn & Suites in Gurnee, Illinois.

J.T. Patel:

Correct.

Attorney Padway:

And the number of rooms?

J.T. Patel:

68.

Attorney Padway:

And the total sale price?

J.T. Patel:

$3.1 million.

Attorney Padway:

The per room sale price?

J.T. Patel:

$45,588.

Attorney Padway:

The next most recent sale would be then in June of 2015?

J.T. Patel:

Correct.

Attorney Padway:

And that was the Hampton Inn Milwaukee Airport hotel?

J.T. Patel:

Correct.

Attorney Padway:

And the total number of rooms there?

J.T. Patel:

122.

Attorney Padway:

The sale price?

J.T. Patel:

$6.6 million.

Attorney Padway:

And the per room sale price?

J.T. Patel:

$54,098.

Attorney Padway:

And then we have some sales in 2014, is that correct?

J.T. Patel:

Correct.

Attorney Padway:

The Holiday Inn in Glendale, Wisconsin, it’s up in the Milwaukee area.

J.T. Patel:

Yes.

Attorney Padway:

How many rooms?

J.T. Patel:

160.

Attorney Padway:

Sale price?

J.T. Patel:

$6.7 million.

Attorney Padway:

And the per room sale price?

J.T. Patel:

$41,875.

Attorney Padway:

And then we have another June 2014 sale which would be the Holiday Inn Milwaukee Airport?

J.T. Patel:

Correct.

Attorney Padway:

And the number of rooms there?

J.T. Patel:

122.

Attorney Padway:

Sale price?

J.T. Patel:

$7.7 million.

Attorney Padway:

And the per room sale price?

J.T. Patel:

$63,114.

Attorney Padway:

And then basically we have a couple in Kenosha in 2012 and 2013, is that right?

J.T. Patel:

Correct.

Attorney Padway:

You have a September of 2013 Holiday Inn Express, is that right?

J.T. Patel:

Yes, the New Berlin location.

Attorney Padway:

And that was how many hotel rooms?

J.T. Patel:

101 rooms.

Attorney Padway:

And the sale price?

J.T. Patel:

$4.15 million.

Attorney Padway:

And the per room sale price?

J.T. Patel:

$41,089.

Attorney Padway:

And that would be a hotel that would be built to the same specifications as your hotel?

J.T. Patel:

It would be, yes.

Attorney Padway:

Similar construction?

J.T. Patel:

Similar construction, similar amenities.

Attorney Padway:

And then you have a Comfort Inn in Kenosha that sold in December of 2013?

J.T. Patel:

Correct.

Attorney Padway:

Number of rooms?

J.T. Patel:

72.

Attorney Padway:

Sale price for that?

J.T. Patel:

$1,420,000.

Attorney Padway:

The per room sale price would be . . .

J.T. Patel:

$19,722

Attorney Padway:

And we have the Comfort Inn & Suites in Gurnee, Illinois, that was . . .

J.T. Patel:

Kenosha.

Attorney Padway:

The Kenosha, from 2012, that was a Comfort Inn & Suites?

J.T. Patel:

That was.

Attorney Padway:

And the sale date?

J.T. Patel:

July 1st, 2012.

Attorney Padway:

And the sale price?

J.T. Patel:

$2,648,500.

Attorney Padway:

And the average per room sale price?

J.T. Patel:

$29,758.

Attorney Padway:

So we have an average of all of the rooms at how much?

J.T. Patel:

$41,932.

Attorney Padway:

And the average for ones in the market area?

J.T. Patel:

$31,822.

Attorney Padway:

And you have attached photographs of all the different hotels that have sold, is that correct?

J.T. Patel:

That is correct.

Attorney Padway:

So the first one is the Best Western at the Milwaukee Airport?

J.T. Patel:

Correct. That is the Country Inn & Suites in Kenosha.

Attorney Padway:

The second photo is the Country Inn & Suites. The third photo would be . . .

J.T. Patel:

The Gurnee Country Inn & Suites.

Attorney Padway:

And the Hampton Inn at the Milwaukee Airport would be the next photo?

J.T. Patel:

Correct.

Attorney Padway:

Then you have the Holiday Inn Express in New Berlin?

J.T. Patel:

Correct.

Attorney Padway:

You then the Holiday Inn in Glendale as the next one?

J.T. Patel:

Correct.

Attorney Padway:

You then have the Holiday Inn in Gurnee, Illinois?

J.T. Patel:

Correct.

Attorney Padway:

And the finally the Holiday Inn in the Milwaukee Airport.

J.T. Patel:

Correct.

Attorney Padway:

Are your rooms any different than the Holiday Inn’s that are depicted in these photos?

J.T. Patel:

No.

Attorney Padway:

Now you have had some discussions with the Assessor about this, is that right?

J.T. Patel:

I have yes.

Attorney Padway:

And your concern with the assessed value as they have arrived at is what?

J.T. Patel:

It is too high.

Attorney Padway:

What are the factors that they have failed to consider?

J.T. Patel:

They have failed to consider the brand of the property, the goodwill of the property and he has used, in my opinion, just a straight income approach.

Attorney Padway:

And that does not take into consideration the goodwill of the property nor does it take into consideration the management of the business, meaning the way that your management you believe to be superior to other operators in the area.

J.T. Patel:

Correct.

Attorney Padway:

You have some proof of the fact that you are one of the top operators in the area, don't you.

J.T. Patel:

I do.

Jane Romanowski:

The next handout will be labeled Exhibit 4.

Attorney Padway:

I am showing what we have marked for identification as Exhibit 4 and ask if you can tell me what this exhibit – first of all where do you get this exhibit?

J.T. Patel:

This is from our internal memo from Holiday Inn, which the parent company is IHG.

Attorney Padway:

So IHG is sort of a holding company that owns the Holiday Inn Express brand.

J.T. Patel:

Correct.

Attorney Padway:

And they provide you with a performance rating, is that right?

J.T. Patel:

Yes, the guests do.

Attorney Padway:

So how is this information developed?

J.T. Patel:

They have a survey system which they use to analyze guests' perception and stay and then they derive a score from that.

Attorney Padway:

And what ranking is your hotel with respect to all of the Holiday Inn's in basically this area.

J.T. Patel:

How they group them, I don't know but they are within our immediate market stretching down to Chicago and west and then north also. And they have also included other properties, Holiday Inn's and Crown Plaza's as part of their mix. How they derive that, I don't know but as far as our positioning, we are number eleven in their list of properties as far as guest satisfaction and overall service score.

Attorney Padway:

What does that tell you about your operation?

J.T. Patel:

In their scoring index, an 84.97 or 85 would be considered excellent.

Jane Romanowski:

Exhibit 5 was just handed out.

Attorney Padway:

Now I'm showing you what we have marked for identification as Exhibit 5 and ask if you can tell me what this is.

J.T. Patel:

This is a Certificate of Excellence given by TripAdvisor which is within the industry is recognized as one of the best way guests and consumers go to find quality hotels. We were recognized for having superior service and I believe we are ranked No. 2 today or No. 1 between the Radisson and ourselves.

Attorney Padway:

And how does TripAdvisor get the information to perform this ranking?

J.T. Patel:

It is all derived from guests' opinions.

Attorney Padway:

People who come to your hotel, experience the stay and then they fill out something and TripAdvisor collates all of that.

J.T. Patel:

Correct.

Attorney Padway:

And what impact does the Internet and these kinds of ratings have on your business?

J.T. Patel:

Significant.

Attorney Padway:

How?

J.T. Patel:

Because it sends a message to a guest who is looking for a room as to what type of experience they may be getting. It creates an enormous amount of value for the guests. TripAdvisor is one of the things in our industry that you'll see hotels will change rates based on that. In bigger markets like San Francisco, New York, a rating is a part of their daily accounting for how they should set their rates. If they have a good week, the rates are going to go higher. If they have a bad week, a bad review, they will go lower. This accounts for a huge tremendous quality value for the guests.

Attorney Padway:

And how much of your business is booked online?

J.T. Patel:

Online is about 50% today.

Attorney Padway:

50%.

J.T. Patel:

Online bookings are 50%. Guests that stay that are loyal club members of IHG, is 67%.

Attorney Padway:

All right, so let's first talk about online – somebody books your hotel online – are they driving into the lot and looking at the physical structure or how are they deciding to stay at your hotel by booking online.

J.T. Patel:

Again, I would assume they would be using reviews. Going to the brand name – recognizing that that stands for quality and going to our website or one of the other numerous website entities and going there and booking.

Attorney Padway:

And the other online booking you talked about is the loyalty customers.

J.T. Patel:

Yes. These are members and these bigger brands have huge numbers of loyal followers. Marriott, Hilton, IHG, has compiled enormous loyalty members and they stay specifically with a property because they can accumulate points and 67% of our business is derived from these loyal members.

Attorney Padway:

And does that have anything to do with the real estate or the construction of your property per se?

J.T. Patel:

Not that I know of.

Attorney Padway:

So the revenue you generate – 67% of the revenue you are generating is coming because of these loyalty programs associated with your brand and not your location necessarily or other than the fact that want to probably stay somewhere in the area and not by physically looking at the property itself.

J.T. Patel:

No. They are staying because they are loyal members to the IHG program and they want to collect their points.

Attorney Padway:

And, again, in your opinion as to the present value of your hotel based on your assessment and the objection you filed is what.

J.T. Patel:

The opinion that I have is $4,163,300.

Attorney Padway:

And that is based on all of the materials that we have looked at and presented to the Board of Review here.

J.T. Patel:

Correct.

Attorney Padway:

Thank you. I have no further questions at this time.

Attorney Seibel:

Can I cross examine the witness now?

Jill Sikorski:

Yes you can.

Attorney Seibel:

Are you an appraiser?

J.T. Patel:

No I am not.

Attorney Seibel:

Do you have any understanding of how property is valued for property tax purposes for assessment purposes?

J.T. Patel:

I am not qualified, no.

Attorney Seibel:

Have you ever looked at the Wisconsin Property Assessment Manual?

J.T. Patel:

I have.

Attorney Seibel:

You have?

J.T. Patel:

Yes, I have.

Attorney Seibel:

What have you looked at in the manual?

J.T. Patel:

When?

Attorney Seibel:

What. What have you looked at?

J.T. Patel:

Pertaining to how assessors are allowed to come up with a value of a property.

Attorney Seibel:

And what is your understanding of that? Do you have any understanding of the three approaches to value?

J.T. Patel:

I know the three approaches but I am not trained in it, no.

Attorney Seibel:

So you have not applied any of the three accepted approaches to value per the Wisconsin Department of Revenue?

J.T. Patel:

We have.

Attorney Padway:

I am going to object because misstates his testimony.

Attorney Seibel:

Have you applied any of the three approaches?

J.T. Patel:

Yes, we have.

Attorney Seibel:

Which exhibit would I look at to see where you have applied and which approach did you apply?

J.T. Patel:

The comparable sales.

Attorney Seibel:

Let’s turn to that one then.

Jill Sikorski:

And just to clarify this would be Exhibit 3?

Ed Judt:

Yes.

Jill Sikorski:

Thank you.

Attorney Seibel:

Did you look in the manual as to how to conduct a property sales comparison approach by making comparisons of the sale prices to the subject?

J.T. Patel:

No, I did not.

Attorney Seibel:

And, in fact, you haven't made any comparisons in your sales comparison approach you just listed a number of sales, correct?

J.T. Patel:

These are the prices that are listed, correct.

Attorney Seibel:

So none of these – you have not related any of these back to the subject property in terms of adjustments for location, time of sale, market conditions – whether there were special financing – you haven't looked at any of those factors, have you?

J.T. Patel:

I calculated the per room price.

Attorney Seibel:

Now, how did you determine the sale price that you have listed?

J.T. Patel:

This is what was listed or given to me by the Assessor.

Attorney Seibel:

Did you look at the Real Estate Transfer Tax Returns that would have reported the sale price?

J.T. Patel:

No, I did not.

Attorney Seibel:

So you haven't independently verified any of these sale prices, have you?

J.T. Patel:

I have – the Best Western Milwaukee Airport and the Hampton Inn in Milwaukee Airport – I did talk to the owners of the properties.

Attorney Seibel:

And they verbally gave you the sale prices?

J.T. Patel:

They did.

Attorney Seibel:

Now is this the total sale price for the transfer for is this just the amount that's allocated to the real estate?

J.T. Patel:

The Best Western and the Hampton Inn is the total price paid. The other properties – the Comfort Inn in Kenosha and the Country Inn & Suites, the Holiday Inn Express, the Gurnee, the Milwaukee Airport – actually the Milwaukee Airport, there might have been – I'm not sure about that one but that is what was allocated to the real estate portion of it.

Attorney Seibel:

And for each of these sales there was a significant amount allocated to goodwill, intangible?

J.T. Patel:

I assume for some of them there was and some of them there wasn't.

Attorney Seibel:

But you do not know?

J.T. Patel:

I don't know for a fact, no.

Attorney Seibel:

So you don't know with each of these sales prices whether it is a certain percentage of real estate, a 100 percent real estate . . .

J.T. Patel:

> This is off the real estate record that was recorded under the real estate it wasn't the FF & E portion of it or the land portion of it. This was the total price for the land and building. If there was something allocated to goodwill or to FF & E, I don't know. All I know is the Hampton Inn, the Best Western Milwaukee Airport - that was a total price paid - that is how they recorded it in speaking to the owners.

Attorney Seibel:

> And that was a verbal representation?

J.T. Patel:

> That was.

Attorney Seibel:

> And so the only two that you have verbal verification is the Holiday Inn in Milwaukee, and what was the other one?

J.T. Patel:

> The Hampton Inn, Milwaukee Airport.

Attorney Seibel:

> The Hampton Inn in Milwaukee.

J.T. Patel:

> And the Best Western is Milwaukee Airport, I'm sorry.

Attorney Seibel:

> And who did you speak to?

J.T. Patel:

> The owners of the property.

Attorney Seibel:

> What are their names?

J.T. Patel:

> The Milwaukee Airport is Patel; the other guy was named – it was like a company they owned – it was, what do you call it – they were out of Boca Rotan, Florida – I called the office and said what was the total price paid. I don't recall his name.

Attorney Seibel:

> Did you share any of these sales with the Assessor when you met with him during Open Book?

J.T. Patel:

> No, I did not.

Attorney Seibel:

> Why not.

J.T. Patel:

> I did not have that compiled.

Attorney Seibel:

> When did you compile this list?

J.T. Patel:

> After he said we would have to come to this meeting.

Attorney Seibel:

> So recently?

J.T. Patel:

> Yes.

Attorney Seibel:

> And then recently you would have had these conversations, like yesterday with some of these owners?

J.T. Patel:

No, I did it last Thursday.

Attorney Seibel:

So you didn't go to the Wisconsin Department of Revenue website to confirm any of these transfer prices which is a public record.

J.T. Patel:

I did not go there, no, but these are recorded on their Assessor's websites.

Attorney Seibel:

But I thought you had a verbal conversation with the owners.

J.T. Patel:

I did – those two I did. The other ones were recorded on the Assessor's website. I did not talk to them nor did I go on the Wisconsin Department of Revenue website to confirm that.

Attorney Seibel:

So you are saying for Milwaukee, the Milwaukee's Assessor's Office records sale prices?

J.T. Patel:

Yes.

Attorney Seibel:

On their website?

J.T. Patel:

Yes, yes they do.

Attorney Seibel:

And that was the real estate sale price so you don't know if how much was allocated to goodwill or personal property?

J.T. Patel:

In Milwaukee, when it is recorded, and I confirmed that with the owner, and I said "W\at did you pay", they said "$7 million", and I said total? They said "Yes." When you look on their website, it is recorded total of $7 million.

Attorney Seibel:

The total price including personal property and intangibles and goodwill?

J.T. Patel:

Yes, that is correct.

Attorney Seibel:

O.K. And did the Assessor accept those values as valid sales?

J.T. Patel:

I don't know. If they are listed on their website, I would assume yes.

Attorney Seibel:

So then you also have presented information concerning assessments – well, let me go back. Are any of these sales that you have identified – how many of them are 100% suites?

J.T. Patel:

The Comfort Inn in Kenosha is 100% suites.

Attorney Seibel:

And your property is 100% suites, correct?

J.T. Patel:

That is not correct, no.

Attorney Seibel:

No?

J.T. Patel:

No.

Attorney Seibel:

What percent is your property of suites?

J.T. Patel:

Twenty-five percent.

Attorney Seibel:

What was your property before it was a Holiday Inn?

J.T. Patel:
It was a Hawthorne Suites.

Attorney Seibel:

And at that time it was only 25 percent suites?

J.T. Patel:

The definition of suites by brand is that, but it is not definable, but the Hawthorne Suites was an extended stay property. It was designed for people to stay long term. There is no division in the room. There was also the appliances that were in all the rooms. They designated that as a suite property because of those amenities.

Attorney Seibel:

But you don’t now?

J.T. Patel:

We do not have those amenities, no.

Attorney Seibel:

You took them out?

J.T. Patel:

Yes, per brand standard.

Attorney Seibel:

Now with the information as you have as far as the assessments in other communities, it would be Exhibit 1, you looked at some of the Holiday Inn Expresses.

J.T. Patel:

Yes.

Attorney Seibel:

How many Holiday Inn Expresses are there in the state?

J.T. Patel:

I don’t know the total number.

Attorney Seibel:

So in the heading where you say 2016 assessments for all Holiday Inn Express hotels in southeastern Wisconsin, this is all of them in southeastern Wisconsin?

J.T. Patel:

Not all, no.

Attorney Seibel:

This is just some of them.

J.T. Patel:

Yes, correct.

Attorney Seibel:

Just a few, correct?

J.T. Patel:

I don’t know how many there are, so I can’t say few.

Attorney Seibel:

Why did you select these?

J.T. Patel:

They were similar in age, construction and also demographics.

Attorney Seibel:

Now you said that each of these is similar in construction. How many of these previously were a suite, an all-suite hotel?

J.T. Patel:

None of them are all suites.

Attorney Seibel:

So then is it fair to say that the construction is not similar?

J.T. Patel:

No, that is not true. Because all suite doesn't mean that it is a superior construction. That doesn't equate.

Attorney Seibel:

But room size is the same?

J.T. Patel:

The room sizes are the same, yes.

Attorney Seibel:

And to the extent it was a suite before and it had a kitchen, you've taken that out?

J.T. Patel:

Yes, we had to remove the kitchen portion of the rooms when we renovated, yes. If you were to look at a Hawthorn Suite today, it is a lower-designated brand. So it is like taking a (inaudible) and saying it is a suite. They will tell you they have suites too. Would you consider that as a suite or would you consider Embassy Suites a suite?

Attorney Seibel:

So, of these, is that an accepted – is it your understanding that it is an accepted methodology in Wisconsin to determine market value of the subject property by looking at assessments of other properties?

J.T. Patel:

I know there is law for uniformity.

Attorney Seibel:

So are you making a uniformity challenge here?

Attorney Padway:

Yes.

Attorney Seibel:

O.K. And your uniformity challenge is based on assessments throughout the state?

J.T. Patel:

Correct.

Attorney Seibel:

Are you aware of what the law is in Wisconsin for a uniformity challenge for property assessment purposes?

J.T. Patel:

Yes.

Attorney Seibel:

What is your understanding?

J.T. Patel:

It has to be uniform.

Attorney Seibel:

And what does that mean?

J.T. Patel:

That all properties have to be uniformly assessed.

Attorney Seibel:

And there are a number of different Assessor's is this state, correct?

J.T. Patel:

I would assume so, yes. I'm not in the business of . . .

Attorney Seibel:

Do you know – when was the last time in Brown Deer that the properties were reassessed in the community?

J.T. Patel:

I don't know. Some of these are 2016 – I should have noted those – but they are within the year or two.

Attorney Seibel:

Sure. And so if this is a 2016 assessment, when was the last time that there was a City-wide reassessment in Brown Deer?

J.T. Patel:

Oh, I don't know.

Attorney Seibel:

When was the last time in the Village of Pleasant Prairie that there was a Village-wide reassessment of all the properties?

J.T. Patel:

I would assume this year.

Attorney Seibel:

Isn't it true that every other year the Village performs a reassessment of all of the properties in the community?

J.T. Patel:

In Pleasant Prairie?

Attorney Seibel:

In Pleasant Prairie.

J.T. Patel:

I thought it was two years.

Attorney Seibel:

That is what I said.

J.T. Patel:

Yes.

Attorney Seibel:

And do you know what these other communities – whether or not the Assessor performs reassessments and revalues the property every year?

Attorney Padway:

I'm going raise an objection here. My understanding is that all municipalities are required to perform a reassessment on a periodic basis so that the values are all comparable throughout the state.

Attorney Seibel:

Well, that is actually incorrect. They are not required and many communities don't do reassessments every ten years or so.

J.T. Patel:

On my list, I would be very confident to say that they do it 1-2 years, very confident in that.

Attorney Seibel:

In Brown Deer?

J.T. Patel:

Yeah.

Attorney Seibel:

And in Germantown?

J.T. Patel:

Yes.

Attorney Seibel:

And what are you basing that on?

J.T. Patel:

Just local knowledge and knowing some of the ownerships.

Attorney Seibel:

Who is the Assessor in Germantown?

J.T. Patel:

Oh, I don’t know him, no.

Attorney Seibel:

Are you sure it is a him?

J.T. Patel:

I don’t know him or her, I’m sorry.

Attorney Seibel:

And is there actually an Assessor in Germantown or do they have a contract Assessor?

J.T. Patel:

Actually, yes, some of these do have contractors, correct.

Attorney Seibel:

All right, which ones?

J.T. Patel:

Sheboygan, Germantown, I believe – I don't know about Sheboygan, I'm sorry. Germantown, maybe Brown Deer? I'm not sure. There were a couple places that I went and there are some municipalities that do contract.

Attorney Seibel:

Many communities do actually in Wisconsin.

J.T. Patel:

I wouldn't say many but quite a few, yes. Same thing.

Attorney Seibel:

So, it is your opinion that for these select Holiday Inns that you have selected that the assessment should be an indication of value for your property in Pleasant Prairie?

J.T. Patel:

It definitely gives an idea and, you know, these are randomly picked based on location and demographics and what not and, you know, your question as to – they are all kind of similar in pricing.

Attorney Seibel:

So if someone was going to buy your property, do you think that the first thing they would do is they would check what the assessment is of a Holiday Inn & Express in Brown Deer?

J.T. Patel:

No, they would not.

Attorney Seibel:

Would they care how the Holiday Inn in Brown Deer is assessed?

J.T. Patel:

I don't believe so.

Attorney Seibel:

What would they care about? If someone approached you and wanted to buy your property, what would be the first thing they would ask you?

J.T. Patel:

Our revenue.

Attorney Seibel:

And, then they would audit your revenue and then they would apply a capitalization rate to indicate a value, via the income approach, correct?

J.T. Patel:

Correct.

Attorney Seibel:

I noticed that you said in your objection form that you used an industry standard of 11 percent for your capitalization rate?

J.T. Patel:

I didn't say it was an industry standard but it is a capitalization rate based on my personal experience in trying to finance properties in this age, this brand and the need for renovations and PIPS. If I speak to my banker, I say I want to buy a property, he will say, it has to have a 12 percent capitalization rate, so it is 12 percent with my finance company. So we derived the 11 percent from there. No it can go – it can be different for other properties, it could be 8 percent based on location, you know, barriers to entry, branding, the age of the property, whether there is PIP involved. There are many factors but 11-12 percent based on my own experience is what I factored that on.

Attorney Seibel:

Again, it is anecdotal evidence, when you've talked to people and that is what you are basing your 11-12 percent on?

J.T. Patel:

No, it is based on my experience on purchasing properties.

Attorney Seibel:

Have you ever consulted any investor surveys that come out quarterly, like Price Waterhouse, Cooper's . . .

J.T. Patel:

Those are irrelevant to this particular property because they will have in there – there scope is much bigger. You know, you are comparing an Embassy Suites in downtown Chicago to a property in Pleasant Prairie and they are using capitalization rates based on those factors. It has nothing to do with our property. In the real world, when we go to purchase a property that is 17 years old that has a flag that needs to be renovated, when you sell the property, those are different dynamics versus something in New York City.

Attorney Seibel:

In your sales comparison approach, I noticed that you didn't make any economic adjustments for any of the subject properties. Do you know what the selling capitalization rate was for any of these sale properties that you have listed on Exhibit 3? What was the selling cap rate?

J.T. Patel:

I do not know because I do not have the information to their revenue.

Attorney Seibel:

And so, therefore, you don't know whether their revenue is greater or less than your revenue to make a comparison to your property?

J.T. Patel:

I would – the cross section of these – some of them will be higher, some of them will be lower.

Attorney Seibel:

But you don't know, do you?

J.T. Patel:

I don't know. It is not public information.

Attorney Seibel:

Do you understand that the Wisconsin Property Assessment Manual requires an adjustment for economic factors in the sales comparison approach?

J.T. Patel:

I do.

Attorney Seibel:

With your purchase in 2009, how much did you allocate to real estate and how much did you allocate to goodwill and personal property?

J.T. Patel:

I don’t have that information in front of me but, I would assume, if I had the documents probably close to $1.5 million into goodwill.

Attorney Seibel:

Isn’t it common to, in purchases of hotels, to allocate sometimes 40-50-60 percent of the total consideration to goodwill?

J.T. Patel:

It can be, yes.

Attorney Seibel:

And that is done for income tax purposes, isn’t it because of the faster write-offs for goodwill versus . . .

J.T. Patel:

No, it is not for income purposes. If somebody puts 50 percent goodwill is because that is what they believe to the goodwill is. A buyer isn’t going to accept the fact that they want to write something off. A seller isn’t going to accept that. There has to be actual goodwill because the seller doesn’t have any benefit by taking a huge goodwill. It has to be appropriate.

Attorney Seibel:

The seller doesn’t? Doesn’t the seller get capital gain on that?

J.T. Patel:

He doesn't want to have a high goodwill in there.

Attorney Seibel:

Why not?

J.T. Patel:

I don't know. You can't allocate a high goodwill just for the sake of allocating high goodwill.

Attorney Seibel:

And with these allocations, that's just a deal that is made, as far as the total consideration, that is based on usually an income approach and then how would that purchase price is allocated between goodwill and real estate, that's all just bargaining position between the buyer and the seller, is that right?

J.T. Patel:

No, there is actual goodwill to the property. I mean, when we look at the sale prices of these properties, you know, some of them, you know, like a Country Inn & Suites, a Comfort Inn, may derive lower pricing because of the branding. Just look at our property. Go back and look at when it was a Hawthorne Suites and what it did in revenue versus what it did the next month when it was converted to a Holiday Inn Express.

Attorney Seibel:

I thought that was because of your superior management.

J.T. Patel:

It was also because of the branding.

Attorney Seibel:

O.K. Now, for property tax purposes, isn't the franchise fee one of the deductions that is taken?

J.T. Patel:

The franchise fee is deducted, yes.

Attorney Seibel:

Right. So doesn't that account for the branding in the income approach?

J.T. Patel:

Based on whose formula?

Attorney Seibel:

Based on generally accepted appraisal practices and the valuation of hotels.

J.T. Patel:

No. I didn't see that.

Attorney Seibel:

You have never seen that?

J.T. Patel:

It's allowed to be deducted but that doesn't create the brand value - doesn't create the value that you have because you deducted the franchise fee.

Attorney Seibel:

Have you ever looked at any recognized treatises on valuation of hotels for property tax purposes?

J.T. Patel:

I have.

Attorney Seibel:

Which ones have you looked at?

J.T. Patel:

I have looked at the Steve Rushmore.

Attorney Seibel:

O.K., what else.

J.T. Patel:

The business enterprise value proposed by some other company.

Attorney Seibel:

Would it surprise you to learn that that is not an appropriate deduction?

J.T. Patel:

I don't know.

Attorney Seibel:

I don't have any further questions.

Jill Sikorski:

Thank you. We will now look to the Village to present their testimony.

Ed Judt:

Just for the record, once again, we are talking about Parcel No. 91-4-122-081-0250 at 7887 94th Avenue.

I am holding in my hand a textbook and I promise you I am not going to read from it and I'm not going to cite it. But it is entitled Hotel Market Analysis and Valuation. It's written by a guy named Steve Rushmore that Mr. Patel just mentioned. He is the preeminent hotel appraiser in the country. He is also the president and founder of a company called Hotel Valuation Services, HVS for short. They are the largest hotel appraisal and advisory service in the country, actually in the world and I mention that only because I want you to understand that this is the preeminent guy with respect to hotel value at this time and has been for number of years. This I am going to cite – this is a reprint of an article that appeared some 30 years ago in the Appraisal Journal, which is the scholarly journal that is published by the Appraisal Institute. It is entitled "The Valuation of Hotels and Motels for Assessment Purposes." Again, Rushmore wrote this. The methods that he sets forth for extracting business value from a hotel sale or a hotel appraisal were put to the test a couple of years later in a New Jersey Supreme Court case. That case – actually I'll cite it for you. That was Glenpointe vs. the Township of Teaneck and Rushmore served as the expert witness for the municipality. They won and it essentially validated his methods for extracting or acknowledging that business value in a hotel.

So I am going to read to you just a short passage from that article. All right, let me quickly read this into the record. "Several procedures have evolved to estimate the business value of a lodging facility. The most appropriate theory for today's environment is based on the premise that by employing a professional management agent to take over the day-to-day operation of the hotel - thereby allowing the owner to maintain only a passive interest - the income attributed to the business has been taken by the managing agent in the form in a management fee. Deducting a management fee from the stabilized net income thereby removes a portion of the business component from the income stream." So that is step one, a management fee.

Then step two. "An additional business value deduction must also be made if the property benefits from a chain affiliation." As you now know, this one does. "This is accomplished by either increasing the management fee expense or by adding a separate franchise fee deduction. Hotel management fees, expressed as a percentage of total revenue, range from 2% to 4% for independent non-chain management companies, and from 4% to 8% for the larger chain and nationally recognized agents. Franchise fees will usually from 3% to 5% of total rooms revenue. Often hotels will be managed by one of the smaller independent management companies and also maintain a franchise affiliation. The proper business value deduction in this instance would be a management fee expense of 1% to 4% of total revenue plus a franchise fee of 3% to 5% of rooms revenue. The amount of business value deduction under this set of circumstances should approximate the management fee expense charged by a national hotel chain." So, again, a management fee and then if there is an affiliation with a national flag, like Holiday Inn, a deduction for the franchise fee as well.

And it has been awhile, so I am going to give you a quick primer on the income approach. The simple equation is there at the top. Value = income ÷ a rate, what we call the cap rate and in a little more detail there in the box, it works like this. Total revenue subtracting the operating expenses. Operating expenses are expenses that are specifically related to the operation of the property so it does not include, for instance, debt service associated with a mortgage. It does not include non-cash expenses like depreciation, which you are given for income tax purposes, but again, expenses specifically related to the operation of the property that results in a net income or net operating income and then you divide that by the capitalization rate and you arrive at a value.

With regard to the cap rate, in this instance in both cases we are using it as a divisor, ideally your cap rate would come from actual sales of actual hotels, in which case it would be more like a quotation. You would take the income associated with that hotel, divide it by the sale price and that would give you the cap rate. Now, unfortunately, I didn't do that because it is very difficult to get income and expense related to these hotel sales as Mr. Patel has shown you. He did not have that information either for the sales that he presented to you. So we go to other sources for purposes of determining our cap rates.

I use a number of sources – I have several of them listed here. The gold standard is Price Waterhouse Coopers, that is a quarterly survey put out by the accounting firm. They do stratify hotels by hotel type but not by geography. So they have a national figure there of 8.9%. I'm not going to go through the whole thing with you but you have their cap rates ranging from a low of 7.5% up to 10.1% under RERC there is third tier properties in the

Midwest. For our purposes, I chose the 10.1%. Now remember, the relationship between value and the rate is inverse so the higher the rate, the lower the value. So by choosing a rate at the top of the range there I am, let's say, I'm minimizing the resulting value. I want you to take note that there is nothing on the page approaching 11%.

So let me show you precisely how we got to the assessment. At the time I did this calculation, remember, we did not have any reporting regarding the income and expenses associated with this hotel from Mr. Patel. We had requested them in early March. He ignored that request and so we were flying blind essentially when we set the value. So these are the estimates I used to get to the value. I assumed gross income of a little over $2.6 million. I am segregating the expenses here just to illustrate for you that were following the method that Rushmore uses for purposes of attempting to extract that business value from the, let's call it the total value of the hotel – asset.

So I assumed 55% expenses outside of the franchise fee, the management fee, replacement reserves and property taxes and I'll talk about that a little bit more in a minute. But 55% for those operating expenses and then 5% for the franchise fee; 4% for the management fee. I acknowledged 4% for replacement reserves – what that means is you are essentially setting aside enough funds to replace the building, for practical purposes, over a 25-year period. That gives us total operating expenses of nearly $1.8 million and that represents 68% of the gross income. We then divide by the cap rate - in this case, the 10.1% that I already showed you. We then add to it the property tax rate. We do that because remember the property tax is dependent upon the property value. So if we estimate property taxes, just as another expense, we're influencing that eventual value and so rather than do that, we simply add it to the capitalization rate – we refer to that as a loaded rate or an overall rate – and that removes the property tax expense both as a revenue item and as an expense item form the calculation. And so that results in a value of nearly $6.9 million. Mr. Patel's reported personal property value for 2016 was $238,700. Subtracting that we get a property value, a real estate value of $6,630,300.

On the next screen, I'm suggesting that had we had his actual income and expenses when we requested them the assessment, right now, would actually be a bit higher than it is and I'll take you through this very quickly. His actual experience was $2.95 million in gross income. Again, that compares with the $2.6 million that I estimated. His operating expenses, at least expressed as a percentage, were a little bit higher at 56% - I initially used 55% remember. And so taking that all into account, including a deduction for his reported personal property value, you have a value of $7,278,500.

I'll give you an abbreviated version of the cost approach. Again, the cost approach attempts to estimate the cost to replace the property now; it applies a factor for depreciation; you then add the line value and you have a present day value for the property. So we are estimating replacement cost at a little over $6.5 million. We are acknowledging physical depreciation of $769,514. At this point, we are not acknowledging functional obsolescence that is related to the design and construction of the building, for instance. We also are not acknowledging any economic obsolescence that is say obsolescence associate with something outside the property like neighboring properties, for instance, or the general economy or something of that nature. So we are only depreciating for the physical depreciation that the property has experienced and that gives us a replacement cost new less that depreciation of $5,745,600. You add the land value at $806,900 and it gives you a total value of $6,552,500.

So Mr. Patel had essentially two major arguments. One was this notion of business value, enterprise value, goodwill, intangible value you call it what you will. The other argument was a comparison of assessments of other properties here in the community and around the state. So I'm going to share with you the majority of those with you again. I was not able to get any information on the Sheboygan or the Milwaukee properties so they aren't included here but the other comparative properties that he used are all listed here. The number of rooms and the value per room that you see there I took from his spreadsheet so I made no attempt to confirm those. I took those as they are. What I did though is I went and I told you it is impossible to get income and expense information but it is not impossible to get room revenue information because the majority of these hotels pay a room tax to the communities that they are located in and so if you obtain that room tax and apply the hotel tax rate you can get an estimate of the room revenue that these hotels experience. The room revenue itself isn't really meaningful again because all of these hotels have a different number of rooms, or different sizes, but that last column that I labeled RevPAR, that is short for revenue per available room, and this is not an actual RevPAR number but the calculation is the same in that we're essentially taking that revenue that's in the second last column and dividing it by the total number of available room nights. So that is the number of rooms times 365. When you look there, you'll see that the Holiday Inn Express here in Pleasant Prairie has by far the highest revenue per available room of all those hotels that Mr. Patel used for his comparison. The one that comes closest is our own Radisson but even the Radisson has a lower revenue per available room than does this Holiday Inn Express.

Attorney Seibel:

And I might just add too when I talked to Ed yesterday in preparation for today's meeting, he wanted to offer the Board this information just so that you would have a basis for comparison and kind of rebuttal testimony. Under Wisconsin law, there was a recent case in 2014 in the Court of Appeals and the Court of Appeals clearly held that the assessments of comparable properties is not relevant information to the valuation of the subject property. So that is the Hirschberg case. I brought copies with me today if the Board wants to read them but the Court of Appeals clearly has held that it is not relevant information in the assessment process.

Ed Judt:

The only other comment I would add here is that again I can't be responsible for what other Assessors are doing in other communities. So I don't know how they arrived at those assessments. When you look at the Holiday Inn Express and the three other hotels in Pleasant Prairie and you look at the revenue per available room in that last column, the relative assessments make perfect sense. The exception is the Radisson – the issue with the Radisson there is that – remember, this is only rooms revenue, it is not other revenue. The Radisson does a lot of conference business, for instance, they have a lot of other revenue as opposed as to these other three hotels and that is the reason the assessment on the Radisson is still significantly higher than it is on the Holiday Inn Express even though their rooms revenue is actually inferior. Again relatively speaking, when you look at the assessments for those hotels, they make perfect sense relative to the room revenue they are experiencing with that one caveat.

Rocco Vita:

The only thing I would add to this is Ed indicated he is not responsible for explaining how another Assessor does what he does or when the other Assessor has done what they have done. Theses assessments could be 20 years old, they could be 15 years old, they could be 10 years old. There is no evidence that they were created as of January 1, 2016 so they are not representative of the same market or the same timeframe.

Ed Judt:

You know the other thing I would add is that, and Mr. Patel excluded this in his presentation to you but he shared with me, the assessment on the new Hampton Inn - and that I would argue that is the most competitive hotel to his asset in the community - and the assessment on that hotel is about $84,000 per room, if memory serves.

Jill Sikorski:

Anything further from the Village?

Ed Judt:

Indulge me one more slide here and I'll stop, I promise. I have some recent sales too. I do not want you to construe this a sales comparison approach, it is not that. Again, because I view these hotels as economic assets and their income and expense history is the most important thing in valuing them. I don't have that information for these sales. The point I wanted to make with these sales is that there are actually are hotels that sell for more than $45,000-$50,000 per room, contrary to the evidence that Mr. Patel has given you.

So you've got four recent sales and I did these in date order but I think it's fortunate that the first sale is the Indigo in Vernon Hills. Most of you have passed this hotel if you shop at the mall. It is on Milwaukee Avenue just south of the mall on the west side of Milwaukee Avenue and it sold in June of 2014 for $10,300 or $81,000 a room. It is interesting that this hotel, like the Holiday Inn, started as an all-suites hotel. It was an AmeriSuites before they converted the flag to an Indigo. Let me address that quickly too. This is all all-suites hotel, our Holiday Inn. Regardless of the semantics of definition involved, these are big rooms. They are bigger rooms than you will find in a typical newly constructed Holiday Inn Express except for the few suites that are included in those newer products. All of these rooms are much bigger and so they are – and you know, he is right – the majority of these rooms do not have two rooms like you might find in an Embassy Suites, for instance, or a Stay Bridge or Hilton has a product whose name escapes me now. These are big rooms. This hotel started as suites hotel and there are still big rooms and the room count has not changed since the day the thing was constructed. So anyway, very similar hotel there in the first comparable.

The second sale was a Country Inn in Fitchburg that sold in April of 2015 for just under $74,000 per room. The next one is a Candlewood Suites, another IHG product that sold in December of 2015 for just under $72,000 per room. And finally a Towneplace Suites in Brookfield, Wisconsin that sold for just over $81,000 per room.

For what it is worth, I added those last two columns and just as an exercise what I did was estimate the net operating income using the cap rate that I used to value the Holiday Inn Express. So when you apply that 10.1% to the sale price, that is the estimated total revenue for those hotels. Then when you divide them by the room count, you see estimated NOI per room ranging from about $7,250 up to about $8,200. My estimated NOI for the subject property gets you over $10,000 in NOI per room.

Attorney Seibel:

Let me just address too real quickly what Wisconsin law is on deducting from the market value of the real estate for "superior management" because that was brought in the taxpayer's case. The first case that addressed that is ANS Associates and it involves Northridge and Southridge when those malls were sold many many years ago. And the malls, both Northridge and Southridge, sold for about $100 million and the assessment in the Southridge case is the one that actually went to the Court of Appeals in Greendale. The taxpayer argued that the sale price couldn't be used to assess the property because the managers of the mall were superior managers and, therefore, at least half of the value, half of the $100 million sale price, $50 million, was attributable to goodwill because of their superior management. The Court of Appeals didn't buy that and said that we look at the earning capacity of the real estate and they said it was all real estate and they rejected that argument. That argument was brought up again very soon thereafter in the Abbey Hotel in Lake Geneva - so that was hotel environment. That case went to the Wisconsin Supreme Court and the Wisconsin Supreme Court recognized the Northridge/Southridge case and said the same thing – you use exactly what the Assessor did – you use a typical management fee to represent typical management and there are no deductions for superior management or you don't add for inferior management. You just take a typical market-based management fee and that recognizes and you assume, the law assumes for property tax purposes, competent management.

One other case that I want to mention because the taxpayers are claiming a uniformity challenge. What they used at first to support their uniformity challenge were the assessments in other communities. A proper uniformity challenge, which is authorized under our Wisconsin Constitution, you only look in the taxation district where the property is located. Obviously, an Assessor in Pleasant Prairie isn't responsible for the assessments in Brown Deer or Sheboygan. So in a uniformity challenge, you look just to your community. And also in a uniformity challenge, the taxpayer says “my property is assessed at fair market value but other property in the community is not assessed at fair market value. There is a general under valuation in the community but I’m at fair market value.” So I don’t think they are making a uniformity challenge because they are saying that their property is over assessed and it is not assessed at fair market value. And by the way, the remedy if for uniformity challenge is that the Board then needs to – if the taxpayer says there property is assessed fairly but other comparable properties are under assessed then it is up to the Board – the remedy for the Board, and this is permitted under the Wisconsin Statutes, under Section 70.47(10) – the Board has the ability to increase the assessments of uncomplained assessments that are under assessed. The famous case on that involved Noah’s Ark in Lake Delton.

So I would submit to you in my closing argument that they don’t have a proper uniformity challenge that the Board needs to act on because they are not admitting that their property is at fair market value. Thank you.

Jill Sikorski:

Thank you. Do you have any questions for the Village?

Attorney Padway:

I absolutely have a few.

Jill Sikorski:

O.K., please go right ahead.

Attorney Padway:

Thank you. My first question is did you ever come out and look at the property?

Ed Judt:

Not recently, no. I inspected the property two times shortly after it was constructed.

Attorney Padway:

In 1999?

Ed Judt:

Probably in 2000, 2001.

Attorney Padway:

So we can agree that you have not looked at the physical structure of the property in performing this assessment.

Ed Judt:

I have not done an interior inspection of the property since 2001.

Attorney Padway:

So you haven't looked at it in performing this assessment, correct?

Ed Judt:

I looked at it last Thursday. I took a picture of it.

Attorney Padway:

The interior of the property.

Ed Judt:

Yes.

Attorney Padway:

O.K. And did you consult the property assessment manual for valuing or performing assessments of hotels in performing your assessment?

Ed Judt:

Not specifically this year.

Attorney Padway:

Can we agree that you have to consider, according to your manual, the Wisconsin Property Assessment Manual, the management – the quality of the management.

Ed Judt:

I don't know.

Attorney Padway:

If I could read to you a section and I'll ask whether or not you agree with whether or not this appears in the assessment manual.

Attorney Seibel:

Which version are you looking at?

Attorney Padway:

I'm looking at what we took off the Internet this morning, from the 2016 version. Now it was revised in 2008, so I'm assuming that there have been no changes since 2008 to this particular section.

Ed Judt:

And before you ask that question, can you cite the chapter and page that you are . . .

Attorney Padway:

I'm looking at chapter 9, page 37.

Attorney Seibel:

Let us bring it up so we can follow along.

Rocco Vita:

Well, if the top of the page starts with 3. Percentage? At the bottom its 9-37?

Attorney Padway:

9-37 is what . . .

Rocco Vita:

Revised 12-12?

Attorney Padway:

No, I have 12-08 according to what we took off the Internet.

Attorney Seibel:

You don't have the most recent version.

Attorney Padway:

On the Internet, according to the Wisconsin Department of Revenue . . .

Rocco Vita:

They have all of them on the Internet.

Attorney Seibel:

They are all on the Internet, all the versions.

Attorney Padway:

I understand that. So let's see if it still states in there.

Jane Romanowski:

Can we please make sure we use the microphones? Thank you.

Attorney Padway:

Does it state "hotels may have additional expenses such as franchise fees, that other types of properties do not have?"

Rocco Vita:

On this paragraph?

Attorney Padway:

Yes.

Ed Judt:

I see that, right here.

Attorney Padway:

"The Assessor may run into a problem in that the amount of income is substantially affected by the quality of management?"

Ed Judt:

I see that.

Attorney Padway:

"Excellent management will often produce a higher return than average?"

Ed Judt:

I see that as well.

Attorney Padway:

"While poor management produces a lower return."

Ed Judt:

Yes, I see that as well.

Attorney Padway:

"The Assessor should be careful to make sure that only the real estate is being valued and not the quality of management or goodwill."

Ed Judt:

I see that as well.

Attorney Padway:

This is the Wisconsin Assessment Manual which is what you are supposed to follow in performing an assessment, correct?

Ed Judt:

Correct.

Attorney Padway:

So the quality of management you have to account for that in performing your assessment.

Ed Judt:

I have.

Attorney Padway:

But you've done it by merely taking out the franchise fee and the management fee.

Ed Judt:

Yeah, but the management fee would deal with that issue.

Attorney Padway:

You've not made any adjustment for the RevPAR as you have described that, correct?

Ed Judt:

Well RevPAR typically is not used in the income approach. RevPAR is a metric that the industry itself uses to measure performance.

Attorney Padway:

Well isn't it a metric that this Guru you have referred to requires that you take into consideration?

Ed Judt:

For what purpose?

Attorney Padway:

For balancing out the difference in management and hotel operations.

Ed Judt:

I don't know.

Attorney Padway:

You have to have some way of adjusting for the fact that some hotels are properly managed or better managed than others, correct?

Ed Judt:

And I think I have don't that.

Attorney Padway:

Well, you've done it merely by taking out the management fee and the franchise fee.

Ed Judt:

Right.

Attorney Padway:

Following those factors – you haven't done it to account for the discrepancy that exists because of higher RevPAR, which directly affects your cost analysis, correct?

Ed Judt:

This is a very well-performing hotel. If there is a business component here, I followed the generally accepted methodologies for removing that business component. Whether it is good management or goodwill or enterprise value or intangible value or any of a number of other things that taxpayers have come to describe it as over the years. I believe that I am acknowledging that.

Attorney Padway:

Well you have used a standard franchise fee in determining essentially what you are going to apply, correct?

Ed Judt:

I have used a percentage that represents that top of the range for what Mr. Rushmore recommends.

Attorney Padway:

No, that is the cap rate you are using.

Ed Judt:

No. No.

Attorney Padway:

So when look at . . .

Ed Judt:

I'll take you back to the reference to his treatise on this subject and what he says is towards the bottom of the second paragraph, "The proper business value deduction in this instance would be a management fee expense of 1% to 4% of total revenue," and I used

4% “plus a franchise fee of 3% to 5% of rooms revenue.” I used 5%. More than that not only did I use the 5% on room revenue, I used it on total revenue. Because again in hotels like this the other revenue doesn’t amount to a whole lot so I don’t make the distinction. I apply that franchise fee to the entire revenue stream. So, I have acknowledged an expense here at the top of the range in both cases.

Attorney Padway:

Just so were clear, do you know what the franchise fee that Mr. Patel pays?

Ed Judt:

He has given me that information.

Attorney Padway:

What is it?

Ed Judt:

I think its somewhere around 2.5%.

Attorney Padway:

Could it be higher like 12%?

Ed Judt:

Yeah, but in the reconstructed income and expenses that I asked him to provide me, I’m looking at that here, there is no franchise fee so let me see that.

J.T. Patel:

So how did you get it? That is like 12%-15%.

Ed Judt:

So, for 2015, he lists a franchise fee of $68,222, if you want to write that down. On total income of $2,636,185 that’s about 2.6%. Are you suggesting that these aren’t accurate numbers?

Attorney Padway:

I am suggesting that you are not considering the marketing component that was set forth on a separate line that was $305,000, which is part of his franchise cost.

Ed Judt:

Although I took his expenses as they were reported with a few exceptions, and that was not one of the exceptions. So I am treating that as an expense and as a result it is being capitalized as a deduction to the eventual value.

Attorney Padway:

Well, you gave him a replacement reserve, right?

Ed Judt:

Yep.

Attorney Padway:

You listed that at 4%.

Ed Judt:

Yep.

Attorney Padway:

Based on 25 years as I recall from your testimony, right?

Ed Judt:

Yes.

Attorney Padway:

Well, if I take your assessed value of $6,630,300, right?

Ed Judt:

Yes.

Attorney Padway:

And if I subtract out what you have for land, because we aren't going to replace the land, right?

Ed Judt:

Right.

Attorney Padway:

That leaves $5,823,400, correct?

Ed Judt:

Yep.

Attorney Padway:

And if I divide by 25, I should get the reserve loss, right? That is 4% right?

Ed Judt:

No, this is 4% of – it's 4% of your income, so you are taking that number, that 4% and capitalizing by the 10.1%.

Attorney Padway:

Right. But what I am looking at is your saying to us that we need to set aside, based on a 25-year life expectancy, right?

Ed Judt:

Right.

Attorney Padway:

Which is basically 4%, same thing right? Twenty-five, divide 100 by 25, it is 4%? If I'm going to have to replace this property and if I am going to properly set my reserve so I can replace it at the end of its life expectancy, I ought to set aside $232,000 a year, right?

Ed Judt:

No.

Attorney Padway:

Oh, I don't.

Ed Judt:

No. The percentage that we use for reserves is typically based on the, what we refer to as, the economic life of the property. Now I think if you were to actually look at the economic life of this property - bear with me a minute – the cost estimating service that we use estimates the typical life a building like this at 45 years. I have granted reserves here over a 25-year life because I think we can all agree that hotels require periodic remodeling more so than your typical office building, for instance, and the 45-year life here only goes to the construction quality. As so I give them a 25-year life - that is 4%. That is appraisal convention. Mr. Patel's lawyer can argue that all he wants but every appraisal textbook on the planet will tell you that I'm doing this the right way.

Attorney Padway:

You have indicated to us that you've applied the Rushmore formula and your counsel or somebody has indicated that New Jersey upheld this formula, correct?

Ed Judt:

Yes.

Attorney Padway:

But you're also aware other states have rejected this formula, correct?

Ed Judt:

No, I'm not.

Attorney Padway:

Well, state of California, in its case law has rejected Rushmore for this very reason as has Kansas, correct?

Ed Judt:

I don't know about Kansas. California I think you are probably referring to San Mateo, am I correct? Do you have citation?

Attorney Padway:

Yes.

Ed Judt:

It was something of a rejection but it did not offer any alternative and that was, as I recall, only an appeals court decision and you know, it was California. So as far as I'm concerned, Rushmore's method has not been discredited.

Attorney Padway:

Let's understand where our dispute here is with Mr. Rushmore and his method, right? The issue is you are looking at an income approach and you are limiting the deductions from income that would be representative of goodwill and excellent management to merely – the franchise fee that you've set aside – in a limited management fee, correct? That is what Rushmore does.

Ed Judt:

I didn't know you were posing a question to me so ask it again.

Attorney Padway:

When we look at the Rushmore formula where you and I, where my client and you are in dispute, is that Rushmore limits accounting for goodwill and excellent management in his assessment methodology to merely deducting from the income a limited amount for the franchise fee and a limited amount for a management fee and that amount varies between 1%-4% on the franchise fee and roughly between 1%-4% on the management side.

Ed Judt:

1%-4% and 3%-5%, I don't remember.

Attorney Padway:

But the fact of the matter is that in his valuation formula – he's saying it doesn't matter how good it is or how bad it is, we're going to focus on just these limited parameters in determining what credit we are going to give to management and the way in which the branding affects it and all of those intangible quantities in reaching the value, right? And we're saying that when you look at the way other hotels are assessed and operated - when you look at the big picture here, if you just limit it to what Rushmore is telling you to limit it to, you are not giving good credit of full credit in determining the value because what you are doing is you are packaging into your value the intangibles that are represented by things like Mr. Patel's operation, the fact that he has a Holiday Inn that, in fact, 67% of his business is coming from loyalty customers who are looking at it and saying "I don't care what it looks like. I'm going to get points for this and, therefore, I am going to book here." And that all increases his revenue stream, which has nothing to do with the valuation or what we are here to do which is determine what is the proper assessment for the real estate and the building and Rushmore doesn't take that into account. And we are saying that has to be taken into account even in your assessment because if you are limiting it to basically 8%, and by the way I don't see where your deducting from the gross income, basically the $300,000 or what we call the sales tax that has to be paid, because there is a room tax that come out right?

Ed Judt:

That's in your expenses.

Attorney Padway:

O.K.

Ed Judt:

That's in that 55% or 56% on the next page. Your room tax and your personal property tax are included there. The only thing I extract is the property real estate tax.

Attorney Padway:

O.K. What we're saying is that when you look at the different revenues between the different hotels in Kenosha, you have a huge discrepancy and we happen to have the one Holiday Inn Express in the area, which is quality brand. And you are packaging into your value the fact that we have a brand that people like and that is not the way you should value or assess property. It shouldn't be based on the brand. It should be based on the land and the building.

Ed Judt:

Is that a question?

Attorney Padway:

Well, can we agree to that?

Ed Judt:

No. Again, this is an economic asset. The sale price would be driven by the economics of the asset and so that drives the value. You know, this argument is made for different property types. I'll tell you a couple of years ago we went to Court with Brookdale Corporation. They are one of the biggest operators of assisted living facilities in the country. They made the same argument. This is all business value, it is not real estate. They said, ya know, you got to use a cost approach and nothing more because any difference between the cost approach and the value of the property is business value. They took us to court, they lost, because it is real estate, its rent, just like this is rent.

Attorney Padway:

Are you equating an assisted living where people pay monthly rent to a hotel? Is there a room tax on the assisting living facility?

Ed Judt:

No.

Attorney Padway:

Alright.

Ed Judt:

I understand that this is much more transient than an assisted living facility but it is still rent. It is a nightly rent instead of a monthly rent.

Attorney Padway:

A rent where there is a room tax on it, right? And sales tax, correct?

Ed Judt:

Sure.

Attorney Padway:

Other taxes apply? It is a retail operation. This hotel.

Ed Judt:

Ya, know . . .

Attorney Padway:

Just so I'm clear also you are attaching value of the brand to this building. If I understand your last statement before we got down this road, you said it doesn't matter, it is a business and I'm going to value it based on the income of this business and the fact that there is a brand associated with it to you is irrelevant.

Ed Judt:

Well first of all, all the comparables you gave us were brands. You didn't list one independent hotel in your analysis. They are flag affiliated hotels. That's first. Secondly, I'm going to go back again to the- I'm by appraisal convention - removing the value of that brand with the management fee and the franchise fee deductions that I am making. Your argument is that that is not enough and I am telling you that appraisal convention says that it is. So we agree to disagree.

Attorney Padway:

Well, that's what Steve Rushmore says, correct, not what our property assessment manual says, correct?

Ed Judt:

No, disagree again. Once again, if there is superior management here, I am accounting for it by granting this property the highest possible adjustment for both the franchise fee and the management fee.

Attorney Padway:

And do you know where Rushmore gets those percentages?

Ed Judt:

I don't.

Attorney Padway:

You don't know whether he just pulled them out of thin air or where they came from, do you?

Ed Judt:

The guy is a recognized expert. He is not only an appraiser and a consultant he also builds them and sells them. So, he knows the business. Are you going to argue that Steve Rushmore is incompetent in this area of expertise, really?

Attorney Padway:

I'm going to say that according to his formula, you have to apply a RevPAR which adjusts the income down to a neutral factor to adjust for the brand and that you haven't done that in your assessment because that is according to his own article. You have to account for the fact that there are businesses that do really well and other hotels that don't do as well and you have to find the middle ground and you have to adjust us down to what would be 100% as opposed to being 175% and that what he says you are supposed to do, correct?

Ed Judt:

What you are suggesting if I think I am understanding correctly is that every hotel here ought to be valued at $45,000 or $50,000 per room and that is not reality.

Attorney Padway:

> No, what I am saying is that you have to adjust the income to account for the actual brand and that's what he says when he adjusts down for the RevPAR to a neutral feature in the area – a neutral factor.

Ed Judt:

> I'll just go back to if you look at the assessments for the four major hotels in Pleasant Prairie, relatively speaking, I think the assessment are absolutely fair.

Attorney Seibel:

> I might just mention on this business value concept, it doesn't just show up in hotels. I represented the City of Milwaukee in a two-week trial in November and this involved the oil terminals in Grandview Road in Milwaukee where the oil comes in from – gas comes in from a pipeline from Chicago to Milwaukee then it is held in the tanks until the tanker trucks picks up the gas and takes it to the gas stations. They argued too – superior management, they do it better; there are five terminals; three of the terminals appeared in court and fought and they said they do it better; their revenue is better because they are superior managers and, therefore, their assessment should be lowered because they do a better job. We had a two-week trial on that and they lost. Circuit Court, Milwaukee County said, and applying the ABKA case that I mentioned before, said that in the assessment process you adjust for it with a typical management fee because it would be a mess if you had to go and look at each operator and go up and down. So you use typical, normal operating expenses and a typical management fee to account for typical management. And also as far as his business value, if it is transferable with the property, it is not business value, it is real estate value. And there is no reason – they have not provided any evidence to say that if he sold the hotel tomorrow that that same value and those same revenues wouldn't be earned by the next owner and that the next owner would expect to earn the same amount that he is earning. It is real estate value.

Ed Judt:

> Let me reinforce that a little bit too she's got me thinking about other court cases like that, and Rocco and I were involved in a lawsuit that was brought by Waste Management back in the late '80s and early '90s when we were members of the old Kenosha County Assessor's Office. And they sued us over the value on their landfill in the Town of Paris saying it's a landfill you should value it like farmland - everything else is business value. That case went to the Wisconsin Supreme Court and the Supreme Court said no, it's not business value. There words were its inextricable intertwined with the land. Even the permit, the permit granted by the State of Wisconsin to operate a landfill at that location, in the Court's opinion, was real estate and nothing else.

Attorney Padway:

> If I understand your argument correctly then, the LaQuinta and the Super 8 should all be generating the exact same revenue as my client.

Ed Judt:

> No, that is was you are suggesting.

Attorney Padway:

> No.

Ed Judt:

> You're telling me you want an adjustment made so that they are all valued the same way, and I'm saying that is not realistic. The revenue produced by LaQuinta and the Super 8 is much lower than the Holiday Inn and the resulting assessment reflects that.

Attorney Padway:

> What I am suggesting is that the reason the revenue is lower is because of our brand, not because of the size of the rooms or because of where we are located – some of those have actually better locations if you will than our location with respect to I-94 – the fact of the matter is is we have a better brand and your assessing the land and the buildings based on the fact that we have a better brand. It's like saying that . . . and that's where were are in dispute. You want to assess our land and our buildings based on the fact that we have a better brand.

Ed Judt:

> We agree to disagree.

Attorney Padway:

> Can you give us a minute please? Just looking at the chart that you put up, where did you get the revenue figures for the Radisson?

Ed Judt:

> From the hotel room tax.

Attorney Padway:

> So what they reported on their hotel room tax.

Ed Judt:

Right.

Attorney Padway:

You did not look at any actual revenues.

Ed Judt:

No, although I assumed significant additional revenue for purposes of the assessment. So I was just comparing room rates there.

Attorney Padway:

And you did the same thing on the LaQuinta?

Ed Judt:

And the Super 8.

Attorney Padway:

And so you looked at the room tax but not necessarily the rental rates per room correct?

Ed Judt:

Correct.

Attorney Padway:

So you have – and so that's how you generated what you believe to be the revenue based just on the rooms.

Ed Judt:

Right.

Attorney Padway:

And same thing for all of the hotels you've listed here?

Ed Judt:

Yes.

Attorney Padway:

You did not look at any actual revenue statements from any of the hotels in putting together this chart.

Ed Judt:

Including what?

Attorney Padway:

In putting together the chart.

Ed Judt:

I did not.

Attorney Padway:

O.K. And then you drew the analogy between the Indigo hotel on your recent sales and a Holiday Inn Express?

Ed Judt:

I'm not sure I understand the question.

Attorney Padway:

Well, you know what kind of hotel the Indigo is.

Ed Judt:

Yeah, I've seen it. I've been by it many times. It began life as an AmeriSuites Hotel so if it was in its infancy much the same or slightly inferior to the Hawthorne Suites that we had prior here to the change in flag.

Attorney Padway:

Have you gone into the Indigo?

Ed Judt:

I have not.

Attorney Padway:

Do you know what they spent on improving it? Do you have any idea?

Ed Judt:

No.

Attorney Padway:

You didn't check into that.

Ed Judt:

No.

Attorney Padway:

Do you know how tall it is?

Ed Judt:

It is four stories.

Attorney Padway:

And the Country Inn & Suites in Fitchburg – did you take a look at that hotel or did you just pull that off the . . .

Ed Judt:

Yeah, I just looked at a commercial produced comp sheet. That is what I did for all four of these.

Attorney Padway:

So, when you did that, you have no idea what was allocated to goodwill on any of these sales, correct?

Ed Judt:

Correct.

Attorney Padway:

I'd like to recall my client for some rebuttal on the suite hotel issue that has come up.

J.T. Patel:

Yeah, it was previously mentioned that we are an all-suite hotel. Within the hotel industry there is branding of the hotels. In the (inaudible) suite - makes people think that – what happened was the industry, when you had suites, when you said you had a true suite, most people imagine that with a door, like a French door separating the two rooms. That is was the previous idea of what a suite was and as the industry grew and as these limited service hotels became more and more commonplace, you noticed, you'll see the Country Inn & Suites, you'll see the Holiday Inn Express & Suites, the Hampton Inn & Suites, the Towneplace Suites, the Hawthorne Suites – they added that to make this idea that you are getting a bigger room and that you add value by doing that but you would want to pay more. When you walk into the room, you realize that there is no differentiation between a regular room and a suite room other than maybe just a little partition or there may be added a wet bar. There might have been added a refrigerator and a microwave. So when you think of a suite, in today's hotel industry, like I said, even a Studio 6, a Motel 6 has a Studio 6, they would consider that a suite. You may not. So when we go back to the suite term, I want you to remember that that it doesn't apply as you would think.

The other part of it is also when it was constructed as a Hawthorne Suites, it was constructed as a Hawthorne Suites Limited, which was the lowest side of branding for Hawthorne Suites at the time. So it was all single beds, there was no partition, there was no door, other than it had a kitchen facility and that was it. Also, I would like to add that, you know, the Assessor makes the case that we do more revenue than the hotels down the street. Now in the case of Pleasant Prairie, the two that we use were the LaQuinta and the Super 8, which we could say may be a little lower branding. But if we go into Kenosha, we have the Candlewood which was built just maybe 2010, so seven years ago, 90 rooms, Candlewood Suites, and we do more revenue. The Country Inn & Suites, the Comfort Inn & Suites – I showed you photographs of the property. If you were to visit those properties and close your eyes or even open your eyes and look at the exterior of the property, walk into the property today, you'll see if that they are at or even better quality of our hotel. Look at the pictures. There isn't a whole lot of difference. So the argument that we are doing better because of our location or because of our building isn't true. If you take those three hotels and mine, I am out performing them. According to his – the way that the formula he cherry picked off of which is of Steve Rushmore, he does say we have to deduct - the RevPAR index is a measure of how well the hotel is performing against its comp set. We have this thing called a star report. Those exact hotels are in my star repot. I outpaced them by 175%, which means I'm capturing a lot of the market share. When we look at those hotels - the Best Western, the Candlewood, the Country Inn & Suites, the Radisson – and you go and look in them and you go inside of them, there isn't much difference. So what is it accounted for? Well he says you have to take that RevPAR index down to 100% where everybody got even market share and is the revenue that you would generate. So I just want to remind you of that.

Attorney Padway:

And your room sizes compare to other Holiday Inn Suites?

J.T. Patel:

Would be the same if not smaller. I showed you a picture of a Holiday Inn Express built in 2015 in Madison. That is an enormous property. The Holiday Inn Express & Suites in Milwaukee by the airport dwarfs my property. I have not rooms in my hotel where there is French doors separating both rooms. These are the properties – the Hampton Inn & Suites, the brand new one built in Kenosha – you'll find a separation. We don't have that.

Ed Judt:

But only in their suites.

J.T. Patel:

Correct.

Ed Judt:

Again, this is a semantic argument. You are being disingenuous, in my opinion.

J.T. Patel:

No, it is not true.

Ed Judt:

Yes, it is true.

J.T. Patel:

No, it is not true because again, the way the brands have recognized that folks want to stay in a suite, they have gone out and sold and said this is a suite, but what is the definition of a suite? If you come to our hotel, you'll see that the definition is based on the fact that we have a refrigerator and a microwave and a wet bar. That's it. That is considered a suite in a Holiday Inn Express and 25% of the rooms have that. The Comfort Inn & Suites, much bigger, the rooms are much larger. The Candlewood Suites, they will have rooms with French doors on them.

Attorney Padway:

And let's just go back to the marketing – there are certain things that you do within the Kenosha/Pleasant Prairie area to generate revenue, is that right?

J.T. Patel:

That is correct. We have a sales team. We also have a website also.

Attorney Padway:

Do you contact the employer's directly?

J.T. Patel:

Absolutely. That is part of our business practice is to generate sales by developing good will with the local corporations and going out and generating that revenue.

Attorney Padway:

There is an example with respect to the Yamaha plant here where you have developed a relationship with that employer. Can you explain how that works and benefits to your hotel?

J.T. Patel:

Absolutely. Yamaha, which is a business within the district here – we have cultivated that relationship. That is a facility where they do training for their franchisees. So starting in October, they will have classes of 25-30 people per week that come and stay in Kenosha and Pleasant Prairie and go train for the four days that they are here – Sunday through Thursday. They stay with us because we have developed that relationship with them. We have marketing towards them to stay with us and that is why they chose to stay with us.

Ed Judt:

That doesn't make you unique. I mean, Snap On, as an example, reserves a block a rooms at the Radisson every night of the year. That is not unusual.

J.T. Patel:

It doesn't have to do anything with the real estate though. It does have to do with the branding, the points. Snap On reserves rooms also with us and there is a reason that they do that because many of the folks do stay because of the fact that it is a Holiday Inn Express. There is breakfast involved. There is many qualitative things in there that they chose to stay there. There is a reason why they don't go to the Super 8 or the LaQuinta or the Comfort Inn & Suites.

Ed Judt:

Yeah, it's a really nice building.

J.T. Patel:

When you walk into any of those buildings and walk into my building, you will not see a qualitative difference.

Jill Sikorski:

Mr. Patel. Would you like to have a closing statement and then we'll have the Village make a closing statement and then I'll close the testimony and the Board will go into deliberations.

Attorney Padway:

I know that the afternoon has been long and we have submitted substantial evidence and I understand that there is this issue about what is relevant and what is not relevant with respect the valuation here. We provided the information regarding the other Holiday Inn Express hotels to demonstrate the fact that with respect to the business, if you will, looking at it from a business valuation standpoint, this assessment is basically 100% or more than double that which other Holiday Inn Expresses are being assessed at based on their business. We have a fundamental dispute here with respect to the valuation methodology used by the Assessor. The Assessor is using an approach which according to the assessment manual fails to address a critical issue and that is the management and the branding. There is a limited accounting for it in by deducting the franchise fee and the management fee; however, it does not comply with the assessment manual and whether Mr. Rushmore, his Guru of hotels with respect to that, he may be an authority somewhere else but the gold standard is what is set forth in our own Wisconsin Property Assessment Manual and that clearly states as we read into the record that "excellent management will often produce higher returns than average while poor management produces a lower return. The Assessor should be careful to make sure that only the real estate is being valued and not the quality of management or goodwill." That's the assessment manual. That's what your Bible is, not Mr. Rushmore who didn't come into court to testify and by the way, who, in his assessment, he failed to take into account what Rushmore requires which is this adjustment, this RevPAR adjustment, so that everybody's starting at a level playing field in determining what the valuation should be. That whole concept behind the RevPAR which has to be made, which was not made, is so that you're really looking at the land and the building and not just considering the fact, and not over valuing the brand and the goodwill. Thank you.

Attorney Seibel:

> I'm just going to make a very quick closing argument. I now everyone is anxious to conclude on this matter. I think we have addressed all of the points as far as business value and the Assessor has testified as to generally accepted appraisal practice to make an adjustment with the management fee and the franchise fee. Opposing counsel keeps saying "but you have to adjust more." He has not said how you need to adjust more but you've got to adjust more. Sometimes he says it's because of the brand, other times he says is superior management, they kind of go back and forth and back and forth as to why there has to be an additional adjustment. Well I will submit to the Board that, not on purpose, but there is an additional adjustment that has taken place here. You will recall the Assessor testified that he had asked for actual income and expense information from the taxpayer and did not get it. And so the assessment was based on estimated income and that is in your packet from the Assessor. The 2016 assessment was based on estimate gross income of $2.6 million, approximately. Then on the next page in the packet, it has the actual financial, the actual receipts in 2015 because the Assessor eventually got it after the assessment was set. Well, lo and behold, that number is $340,000 more than what the Assessor took into account in the income approach. So, all of the urging that counsel has been saying that there has to be more, there has to more than what the Assessor did with the Rushmore approach, I guess he indirectly has done more because he understated the gross income by $340,000.

J.T. Patel:

> Ma'am. The $2.9 million includes 5.6% sales tax and 8% room tax.

Jill Sikorski:

> I'm sorry, it is not . . .

Attorney Seibel:

> Yes, this was my closing argument and I believe your testimony is closed. And, therefore, I submit to you that the Assessor has done everything in accordance with the manual and has recognized the fact of the business that is conducted at the subject property. You know, of course, some of that business is because of its location and so that can't be dismissed at the same time. Thank you for your kind attention.

Jill Sikorski:

> Thank you. We will now close the testimony in this case and the Board of Review will begin deliberations. I am going to go ahead and start, I have a few questions for both Mr. Patel and the Village. I don't know if it was an oversight but in the packet you provided that I received a copy of, which was Exhibit 3, I did not see a piece of information as far as a photo of the Comfort Inn in Kenosha. There were nine properties listed – I have eight photos. I don't know if that was an oversight and the reason I bring it up, it is listed

as one of your lowest sale prices and I don't know if that was just an oversight where you did not include that?

J.T. Patel:

I do have a photo if it – I did just see it. Yeah, that was an oversight.

Jill Sikorski:

O.K.

J.T. Patel:

The picture of it is in the – in exhibit – if you wanted to see the photograph . . .

Jill Sikorski:

Is it 2?

J.T. Patel:

Yes, it is in Exhibit 2. You'll see a picture of it yes.

Jill Sikorski:

And then you mentioned in 2009 when you purchased the property to maintain the brand, you had to remove some of the existing kitchen/appliances in the, what we are going to call, certain suites?

J.T. Patel:

Yes.

Jill Sikorski:

On your objection form, however, after you acquired the property, you listed any changes that in 2010, the cost of the changes were $100,000 which were new carpets, paint and wall coverings. So was the cost of those remodeling and renovations of those certain kitchenette rooms not included in that $100,000 or were they?

J.T. Patel:

They were removed.

Jill Sikorski:

So there wasn't any drywall patching or repairs to the . . .

J.T. Patel:

Well that was part of that – what we did.

Jill Sikorski:

It was.

J.T. Patel:

Yes.

Jill Sikorski:

O.K. Thank you. And do you recall the Village requesting financial information so that they could . . .

J.T. Patel:

Yes.

Jill Sikorski:

And you just decided not to provide that?

J.T. Patel:

I did provide it - at the end of May is when I provided it. Not when they requested it.

Jill Sikorski:

But not within the timeframe for him to use that for the assessment.

J.T. Patel:

I don't know what his timeframe was. There wasn't a deadline on there that I can recall.

Jill Sikorski:

Ed, do you remember requesting that?

Ed Judt:

The request was made in early March of all relevant properties within the Village. I asked them to return that information to me by April 15th. Mr. Patel's information didn't come in late May, it came in probably somewhere around the 15th or 16th of June. It came in a week or more after the Open Book period began.

Jill Sikorski:

So for 2016, that was an estimate?

Ed Judt:

I'm sorry.

Jill Sikorski:

His revenues for 2016 was an estimate?

Ed Judt:

His revenues from 2015 that I used for valuing the property for 2016 was an estimate.

Jill Sikorski:

And the 2014 reflected in 2015 was based on the hotel room tax?

Ed Judt:

No, the 2014 value should have been based on the financial performance of the property in 2013. However, Mr. Patel was successful in pointing out some inequities to me relative to the other hotels in Pleasant Prairie; and as a result in 2014, we made a substantial concession in his assessment and we routinely do not address that in the interim year because we revalue every other year. We got caught with our pants down in 2014 and that is what resulted.

Jill Sikorski:

Thank you. Anyone else on the Board have any questions, comments?

Mark Riley:

For the Village, I just wanted to get one thing clear in my head and I'm not sure it's going to be totally irrelevant but it might help me in the future. On the Radisson – the Radisson Hotel, when you divide back its value back by its number of rooms, do you take into consideration all their banquet halls and everything versus a Holiday Inn Express where they have no banquet facilities.

Ed Judt:

Yes.

Mark Riley:

You do.

Ed Judt:

We do.

Mark Riley:

And how do you do that by deducting the banquet off the value?

Ed Judt:

Remember, go back and look at the . . .

Mark Riley:

I guess the broader scope of my question and there was a lot of converting sale prices into cost per room and not knowing what else was involved there. I mean if you swimming pools and banquet facilities and dividing that all back per room, it's kind of irrelevant math.

Ed Judt:

Well, no take a look at the assessment comparison again. So you have revenue per available room here by my estimate of about $80 on the Radisson and about $88 on the Holiday Inn, right? So theoretically that should result in a higher for the Holiday Inn but it doesn't because of all that additional revenue associated with the conference space and the conference business that the Radisson does and that is why when you go two columns over, you see that the actual assessment on the Radisson is over $92,000 per room while the assessment on the Holiday Inn is less than $82,000 per room.

Mark Riley:

O.K.

Ed Judt:

All of that difference and more is explained by the non-room revenue that the Radisson generates.

J.T. Patel:

May I ask how you would . . .

Jill Sikorski:

I'm sorry you cannot – testimony is closed.

Mark Riley:

O.K., the other question I have, well, it is really a statement on the superior management. There is range of about 30 points there and you're in that 60 – you're in the, right at the upper two-thirds so I'm not sure how you would define superior management. You are above average but you certainly are not at the top.

J.T. Patel:

Correct. And if you were to take those facilities - those are brand new facilities, O.K. The thing that the chart doesn't show you is the breakdown of points. So like 95 is, I forget the name, it's like whatever they use. We are in the excellent category for Holiday Inn.

Mark Riley:

O.K. This is back to the Village – did you do all three approaches or just the income approach?

Ed Judt:

Did not do a sales comparison approach.

Mark Riley:

Did you do a cost approach?

Ed Judt:

Yes.

Mark Riley:

Do we have that?

Ed Judt:

It was presented.

Mark Riley.

It was presented. I'm going to look at that and I have no further questions.

Bill Morris:

Just a couple questions for each as well. You discussed or you made reference to, as was brought up before, the removal of the kitchen facilities and things of that nature in some of the suites. What was allocated to that square footage then?

J.T. Patel:

We removed a refrigerator, o.k., it was a refrigerator. There was a counter top and we put a counter top, you know, it had a sink, now it is just a straight granite bar.

Bill Morris:

So you removed the refrigerator, a sink, counter top and put a granite type counter back into that same allocated square footage.

J.T. Patel:

Exactly. And then there also – we added cabinets.

Bill Morris:

So some additional storage or some amenity.

J.T. Patel:

Right, correct. What was a kitchen became kind of a counter space.

Bill Morris:

O.K. One of the other items that was kind of discussed or challenged a little bit was the 25 year life expectancy of the facility. I'm not sure if this question really would go to you or would go to the Village. If, in fact, you are allocating or you dividing this over a 25-year life expectancy but then in the interim actually making and continuing to investments or needed investments in your building, i.e., upgrading these rooms with granite countertops and new cabinets and things of that nature, does that not then factor into extending that 25-year life calculation?

Ed Judt:

Are you asking me?

Bill Morris:

I'm not sure which . . .

Ed Judt:

I'll answer the question. It does for me. So, for instance, we use something called effective age here and I am using depreciation appropriate for a 13-year old facility as opposed to a 17-year old facility to account for those upgrades that have been made over the years.

Bill Morris:

Sure and that seems logical to me. And then, is there, I guess and I know it was talked about a minute ago, in all the comparisons we were making here and there was numerous times to the Super 8 and to the LaQuinta, how do you – I mean this particular facility, if I am correct has an indoor swimming pool?

J.T Patel:

Yes.

Bill Morris:

O.K. How does that factor or not factor into the evaluation of the facility?

Ed Judt:

Well, in our cost approach it's valued directly but we didn't use the cost approach to arrive at our value. We used the income approach so to the extent that that swimming pool affects room rates and total revenue, it is incorporated into the value that we arrive at using the income approach.

Bill Morris:

O.K. Thank you. That is all I have.

Jill Sikorski:

Anyone else? Questions?

Jane Romanowski:

Just kind of a technical point, lets mark the Power Point Presentation Exhibit 6 because it was referred to quite a bit and we didn't get that into the record.

Jill Sikorski:

All right so now we will have a brief discussion on the presentation and testimony - the Village Assessor has upheld the value? Any discussion on that? Do I have a motion to uphold the Village Assessor's assessment of the property of the Holiday Inn Express in Pleasant Prairie?

Mark Riley:

I would make that motion that we uphold the Village's assessment and I am going to base it on some fairly simple math. You never attacked the cost approach, which is the real estate and the land, or the improvements and the land and their income approach is coming in at the exact same numbers as the cost approach, which means there's no blue sky, goodwill, excellent management being assessed. So for that reason, I would say that they proved through both methods, being almost the same number, that they have assessed only the real estate.

Bill Morris:

I will second that motion.

Jill Sikorski:

We need a roll call please.

RILEY MOVED TO UPHOLD THE 2016 ASSESSMENT FOR PROPERTY OWNED BY DEV HOLDINGS KENOSHA LLC ON PROPERTY LOCATED AT 7887 94TH AVENUE, TAX PARCEL NO. 91-4-122-081-0250, IN THE TOTAL AMOUNT OF $6,630,300; SECONDED BY MORRIS; ROLL CALL VOTE - SIKORSKI – AYE; SCHLATER – AYE; RILEY – AYE; HILDRETH – AYE; MORRIS – AYE; MOTION CARRIED 5-0.

Jane Romanowski:

For the record, I will prepare the Notice of Determination right now and hand deliver it to Mr. Patel.

Jill Sikorski:

Thank you. And this will also include your appeal process should you decide to appeal this decision. Thank you. Any further business for this evening?

6. ADJOURNMENT

Jill Sikorski:

We will adjourn for the day. We will reconvene tomorrow at 9 a.m. for one more hearing. (Meeting adjourned at 5:30 p.m.)