

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition No.:** 06-005-21-1-4-00251-22  
**Petitioners:** Sohum Hotels Anson LLC  
**Respondent:** Boone County Assessor  
**Parcel:** 021-03930-17  
**Assessment Years:** 2021

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. Sohum Hotels Anson LLC (“Sohum”) appealed the 2021 assessment of its property located at 6064 South Main Street in Whitestown.
2. On January 27, 2022, the Boone County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 115 valuing the property at \$661,200 for land and \$4,059,200 for improvements for a total assessment of \$4,720,400.
3. The Petitioner timely filed an appeal with the Board, electing to proceed under the small claims procedures.
4. On July 21, 2022, Dalene McMillen, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
5. John Johantges of Property Tax Group 1, Inc. represented the Petitioner. Ravi Patel, owner, appeared as a witness. Dan Spiker, consultant with Government Utility Technology Service represented the Assessor. All were sworn and testified under oath.

**Record**

6. The parties submitted the following exhibits:

Petitioner Exhibit 5: Real Capital Analytics – capitalization rates,  
Petitioner Exhibit 6: CBRE “Hotel Sale Summary,”

Petitioner Exhibit 7: Hunter Hotel Advisor – capitalization rate comparison between Courtyard by Marriott and Holiday Inn Express hotels,  
Petitioner Exhibit 8: Monthly STAR Report for Holiday Inn Express & Suites for December 2020,  
Petitioner Exhibit 9: 2021 Holiday Inn Express Hotels’ property tax assessment summary,  
Petitioner Exhibit 13: Subject property’s 2020 profit and loss statement.<sup>1</sup>

Respondent Exhibit 5: Respondent’s historical data, PTABOA evidence, 2019 tax summary, payment history, cap rate support, Cushman & Wakefield location map and Analysis of Market Trends (5 pages),  
Respondent Exhibit 9: Indiana Board of Tax Review – Notice of Hearing on Petition,  
Respondent Exhibit 10: CoStar – Sale Comps Analytics (22 pages)<sup>2</sup>  
Respondent Exhibit 11: List of hotel sales in the State of Indiana from January 8, 2021, through July 4, 2022,  
Respondent Exhibit 12: PwC Real Estate Investor Survey – National Limited-Service Midscale & Economy Lodging Segment **(Confidential)** (4 pages),  
Respondent Exhibit 13: RERC Metropolitan Investment Criteria **(Confidential)** (4 pages).<sup>3</sup>

- a) The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders, and notices issued by the Board or ALJ; and (3) a digital recording of the hearing.

### Objections

7. Sohum objected to Respondent Exhibits 12 and 13 on the grounds she failed to timely provide copies prior to the hearing. In response, Spiker testified the information was requested from a third-party, who did not send the information until July 19, 2022. The information was immediately emailed to the Petitioner. The ALJ took the objection under advisement.
8. The Board’s small claims procedural rules provide that, if requested, “the parties shall provide to all other parties copies of any documentary evidence and the names and

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<sup>1</sup> The Petitioner submitted Petitioner Exhibits 1, 2, 3, 4, 10, 11 and 12, but did not enter them into the record.

<sup>2</sup> Respondent Exhibit 10 is numbered 10-(1-23) but page 10-17 was omitted.

<sup>3</sup> The Assessor submitted Respondent Exhibits 1, 2, 3, 4, 6, 7 and 8 but did not enter them into the record.

addresses of all witnesses intended to be presented at the hearing at least five (5) business days before the small claims hearing.” 52 IAC 4-8-2(b). The rules further provide that failure to comply with that requirement “*may* serve as grounds to exclude evidence or testimony that has not been timely provided.” 52 IAC 4-8-2(c) (emphasis added). Here, Sohumi failed to present any evidence to show it requested the Assessor’s evidence before the hearing. For that reason, we overrule the objection and admit the exhibits.

### Findings of Fact

9. Findings:

- a) The subject property is a Holiday Inn Express with 84 rooms in Whitestown that was constructed in 2018. According to Sohumi’s profit and loss statement, the hotel had a net operating income of \$358,695.96 in 2020. *Johantges testimony; Patel testimony; Pet’r Ex. 13.*

### Contentions

10. Summary of the Petitioner’s case:

- a) Sohumi argued that the subject property should receive a reduced assessment based on an income capitalization approach and the negative effects of the COVID-19 pandemic on hotel properties. *Johantges testimony; Patel testimony.*
- b) Sohumi presented an income capitalization approach that valued the property based on its actual net operating income. The valuation used a 9% capitalization rate. In support of this rate, it pointed to several factors including:
- A settlement agreement with the county for the 2020 assessment year that used a 9% capitalization rate.
  - Seven sales of Indiana hotels with capitalization rates ranging from 5% to 11.5%.
  - Eight sales of Midwest hotels with capitalization rates ranging from 8.49% to 10.37%.
  - Nine sales of Courtyard by Marriott hotels with rates ranging from 4.98% to 8.50%.
  - Six sales of Holiday Inn Express Hotels with rates ranging from 9.18% to 13.48%.

*Johantges testimony; Patel testimony; Pet’r Exs. 5-7, 13.*

- c) After removing property taxes from the expenses, Sohumi capitalized its actual net income to arrive at a value of \$3,985,510.67. From this, it extracted \$500,000 of personal property to arrive at an estimate of \$3,400,000 (rounded). *Johantges & Patel testimony; Pet’r Ex. 13.*

- d) Sohum also submitted a report that compared the subject property to various other Holiday Inn Express hotels in the greater Indianapolis area. The report showed that as of December 2020, the subject property had a higher occupancy rate, average daily rate, and revenue available per room. *Patel testimony; Pet'r Ex. 8.*
- e) In addition, Sohum presented an analysis of the assessments and taxes of other hotels in the greater Indianapolis area. This analysis showed that while other Holiday Inn Express hotels had an average per room assessment of \$38,008 for 2020, the subject property was assessed at \$56,195 per room. It also showed that the subject property had a higher than average assessment per room than other non-Holiday Inn hotels, and the highest "taxes per room" of the hotels presented. Patel did note that some of the subject property's rooms were not in service in 2020 due to water damage. *Patel testimony; Pet'r Ex. 8-9.*
- f) Finally, Sohum contended that the Assessor's sales analysis was flawed because it used sales prior to 2020, which were outside the time frame for the assessment and before the Covid-19 pandemic. *Patel testimony.*

11. Summary of the Respondent's case:

- a) The Assessor claimed the subject property's assessment should be increased. In support of this, Spiker testified that the subject property is located in one of the fastest growing communities in Indiana with one of the highest median incomes. *Spiker testimony; Resp't Ex. 5.*
- b) Spiker testified that due to the Covid-19 pandemic, Boone County, along with some other nearby counties, commissioned a study on the impact the pandemic had on different property classes in each county. The study concluded that Boone County's hospitality market was negatively impacted between 15% to 20% from January 1, 2020, to January 1, 2021. In order to give the taxpayers the benefit of the doubt, the Assessor decreased the 2021 assessments of all hotels in Boone County by 25% below their 2020 values. *Spiker testimony; Resp't Exs. 5.*
- c) Spiker also testified that the 2021 assessment should be calculated by reducing the prior year's value of \$6,500,000 by 25%. This would result in an assessment of \$4,875,00. *Spiker testimony; Resp't Ex. 5.*
- d) In addition, the Assessor submitted two sets of data that Spiker argued showed Sohum's capitalization rate was too high. The first set included sales of Holiday Inn Express hotels from across the Midwest area. These sales were from 2018-2020 and had capitalization rates ranging from 4.70% to 8.45% with an average of 6.6%. Spiker noted that the average 2020 sale price per room was \$52,000, while the three-year average was \$76,713.11. He also pointed out that the average year built was

2002, or 16 years older than the subject property. The second set of data was from an RERC report of Tier 1 investment grade properties from the fourth quarter of 2020. This report showed rates ranging from 7.4% to 7.8%. *Spiker testimony; Resp't Exs. 10, 13.*

- e) The Assessor also presented sixty-eight sales of Indiana hotels from January 8, 2021, to July 4, 2022. Spiker testified that these sales show that hotels are generally under-assessed because the assessments ranged from 14% to 95% below the sale prices, with only three exceptions. *Spiker testimony; Resp't Ex. 11.*
- f) Finally, Spiker criticized Sohum's income analysis on the grounds that it was not stabilized because it used data from the pandemic and included a time period where some rooms were out of service. *Spiker testimony.*

### Analysis

- 12. The Petitioner failed to make a prima facie case for reducing the assessment.
  - a) Generally, an assessment determined by an assessing official is presumed to be correct. 2021 REAL PROPERTY ASSESSMENT MANUAL at 3. The petitioner has the burden of proving the assessment is incorrect and what the correct assessment should be. *Piotrowski v. Shelby County Assessor*, 177 N.E.3d 127, 131-32 (Ind. Tax Ct. 2022).
  - b) Real property is assessed based on its market value-in-use. Indiana Code § 6-1.1-31-6(c); 2021 REAL PROPERTY ASSESSMENT MANUAL at 2. The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject property or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
  - c) Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For the 2021 assessment, the valuation date was January 1, 2021. *See I.C. § 6-1.1-2-1.5.*
  - d) Here, the Petitioner offered an income capitalization approach based on the subject property's actual net operating income. Although examining a property's actual income and expenses is an important step, relying on them exclusively is inappropriate when appraising a property's market value-in-use. *See Indiana MHC*,

*LLC v. Scott Cty. Ass'r*, 987 N.E.2d 1182, 1185-86 (Ind. Tax Ct. 2013) (citing THE APPRAISAL OF REAL ESTATE 493, 501, 509, 511-12 (12<sup>th</sup> ed. 2001) (“[T]o provide a sound value indication under the income capitalization approach, one must not only examine the historical and current income, expenses, and occupancy rates for the subject property, but the income expenses, and occupancy rates of comparable properties in the market as well.”) (emphasis in original). Although Sohum did provide some analysis of other nearby hotels, it provided no evidence showing that its net operating income, and in particular its expenses, were reflective of the general market. Nor did Sohum demonstrate that either Johantges or Patel had the expertise to make this determination. This by itself makes Sohum’s income analysis unreliable.

- e) In addition, we note that Sohum failed to adequately support its choice of capitalization rate. Although it presented extensive data, it failed to show how that data supported a 9% capitalization rate specifically for the subject property. And as discussed above, Sohum did not show that either of its witnesses had the expertise to develop a capitalization rate from that data. We give no weight to the fact that the parties may have used a capitalization rate of 9% in a settlement for the prior year’s assessment.
- f) Sohum also presented several assessment analyses of hotels in the Indianapolis area. A party offering sales or assessment data must use generally accepted appraisal or assessment practices to show that the properties from which the data is drawn are comparable to the property under appeal. *See Long*, 821 N.E.2d at 470-71. Conclusory statements that properties are “similar” or “comparable” do not suffice; instead, parties must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long*, 821 N.E.2d at 471. They must similarly explain how the relevant differences affect value. *Id.* But Sohum did not provide any such analysis. It did not identify or quantify specific differences between the purportedly comparable hotels and the subject property. Without evidence that shows the impact of those differences on value, the Petitioner’s assessment analyses are unreliable. Sohum also argued that it received higher tax bills than other hotels in the area. We note that many of these hotels were located in different taxing jurisdictions. Taxpayers are not guaranteed to receive the same tax rate as other properties located in different tax districts.
- g) Finally, we note that it appears Sohum may have been arguing that it did not receive a uniform and equal assessment as mandated by I.C § 6-1.1-2-2 and Article 10 of the Indiana Constitution. As the Tax Court has explained, "when a taxpayer challenges the uniformity and equality of his or her assessment one approach that he or she may adopt involves the presentation of assessment ratio studies, which compare the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals." *Westfield Golf Practice Center v. Washington Twp. Assessor*, 859 N.E.2d 396, 399 n.3 (Ind. Tax Ct. 2007) (emphasis in original). Such studies, however, should be prepared according to

professionally acceptable standards. *Kemp v. State Bd. of Tax Comm'rs*, 726 N.E.2d 395, 404 (Ind. Tax Ct. 2000). They should also be based on a statistically reliable sample of properties that actually sold. *Bishop v. State Bd. of Tax Comm'rs*, 743 N.E.2d 810, 813 (Ind. Tax Ct. 2001) (citing *Southern Bell Tel. and Tel. Co. v. Markham*, 632 So.2d 272, 276 (Fla. Dist. Co. App. 1994)). But Sohum did not demonstrate that it provided a statistically reliable sample of properties or that it was receiving an unequal assessment. For that reason, we find it is not entitled to any relief on these grounds.

- h) Consequently, Sohum has failed to make a prima facie case that the assessment should be reduced. That does not end our inquiry, however, because the Assessor requested the 2021 assessed value be increased.
- i) The Assessor asked to increase the assessment based on reducing the prior year's value \$6,500,000 by 25%, a figure it derived from a study of the decline of hotels in Boone County in 2020. But the Assessor failed to show how the initial figure of \$6,500,000 was supported. Nor did she show that the 25% reduction was specifically appropriate for the subject property. Thus, the Assessor's purported value of \$4,875,000 is unsupported. Statements that are unsupported by probative evidence are conclusory and of little value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998); and *Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 890, 893 (Ind. Tax Ct. 1995). Therefore, the Assessor has failed to make a case for any increase in the assessment.

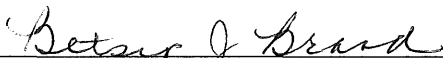
### Final Determination

In accordance with the above findings and conclusions, the Board orders no change to the 2021 assessment.

ISSUED: 10/19/2022



Chairman, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice.

The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>.