

## Appellate Court Reconsiders Decision in Disney Property Tax Appeal

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Aug 11, 2020



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On Friday, the Fifth District Court of Appeal issued a revised opinion in a closely-followed case, *Singh vs. Walt Disney Parks and Resorts*, a property tax appeal involving the 2015 assessment of Disney's Yacht & Beach Club property. In its prior opinion, issued in June, the three-judge panel held that the valuation method employed by the Orange County Property Appraiser, a highly-scrutinized method known as "Rushmore," was illegal in Florida because it failed to exclude the value of nontaxable, intangible business value from the appraisal. The sweeping conclusion by the appellate court—that Rushmore was patently illegal in Florida—promised to be a death knell to the appraisal method in the state, as previously reported.

Upon rehearing, the appellate court rolled back its categorical rejection of Rushmore—instead ruling that the application of Rushmore was illegal as applied in the Disney case. By limiting its analysis to the Disney case, the revised decision better aligns with the record on appeal and the relief the parties actually sought. Although amicus curiae appearing in favor of Disney had suggested that Rushmore be rejected globally, neither of the parties to the appeal requested such relief.

The revised decision does not signal that Rushmore will be widely adopted statewide. Remaining in the opinion is legal analysis that discusses the infirmities in the Rushmore method, and how it may not pass constitutional muster. Appraisers who continue to employ Rushmore to value hotel and resort properties in the state are certain to face challenges and litigation based upon this analysis.

Furthermore, the revised decision did not alter the court's initial analysis related to ancillary income at resort-style hotels, which was the other significant result. The Orange County Property Appraiser is required to determine ancillary income (non-room income) by evaluating what the space would be rented for to a third-party, not based on how much revenue that particular space (restaurant; spa; banquet; etc.) brought in throughout a given year.

The revised appellate court decision can be found [here](#).

Lowndes attorneys Jennifer Dixon and Brendan Lynch authored an amicus brief that was submitted in the case on behalf of the Central Florida Hotel and Lodging Association. If you have any questions about this case, or questions about your property taxes in Florida, please reach out to one of authors or to the members of our Property Tax Group.