

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of a complaint against a 2010 Supplementary Property Assessment, as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4), Revised Statutes of Alberta 2000 ("the Act").

**between:**

***Germain Resources Ltd., COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Ted Helgeson, PRESIDING OFFICER***

***Joe Massey, MEMBER***

***Jade O'Hearn, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of a Supplementary Property Assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

**ROLL NUMBER: 201562345**

**LOCATION ADDRESS: 899 Centre Street S.W.**

**HEARING NUMBER: 60675**

**ASSESSMENT: \$17,840,000**

This complaint was heard on 26<sup>th</sup> day of April, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *Mr. Doug Hamilton*

Appeared on behalf of the Respondent:

- *Mr. Jim Toogood*

**Board's Decision in Respect of Procedural or Jurisdictional Matters:**

No procedural or jurisdictional matters were raised by either the Respondent or the Complainant, and no objection was made with respect to the composition of the panel.

**Property Description:**

The property is a new hotel at 899 Centre Street S.W. in downtown Calgary. The hotel, the "Le Germain", was completed in mid-2010, and has 144 rooms. It is a 'boutique' hotel, with more service, better furniture and furnishings, and more wide-screen TVs than other hotels. As assessed, the land value of the subject property is \$16,000,000, and the improvement (hotel and office) value is \$17,840,000. As pro-rated over seven months in 2010, the Supplementary Assessment is \$10,406,670.

**What the Complainant's agent said:**

The Complainant told the Board that the subject property has been assessed in excess of its market value. Further, it has been assessed in contravention of s. 293 of the *Act* and Alberta Regulation 220/2004, and that the use, quality and physical condition attributed to the subject property by the Respondent is incorrect, inequitable, and does not meet the requirement of s. 289(2) of the *Act*. Because the subject property was not completed until 2010, there is no revenue from the subject property on which an assessment using actual revenue could be based. There is no evidence to determine the assessed average room rate per occupied room ("POR") or per available room ("PAR"). The assessment of the subject property is neither fair and equitable, nor correct. The assessment should be adjusted to the lower of market value or equitable value.

For the most part, the assessment of the subject property is based on industry standards, nevertheless the room rates are based on "asking" room rates, i.e., the subject property's advertised room rates, not typical room rates. The assessed PAR room rate should be typical of other full service hotels in downtown Calgary, i.e., \$155, a PAR based on actual, not speculative rates during the best years, i.e., 2007 and 2008. The room rate of \$217 per available room used by the Respondent is based on nothing more than speculation. The actual rate for the subject property is \$129 per room, but we are not asking for that rate in arriving at a fair and equitable assessment for the subject property. In our approach to valuation, we are using industry norms, because that's the way the Respondent generally does it. There is nothing to support the

capitalization rate of 10.5%, but it is used for downtown hotels, and is therefore acceptable, and has been used in arriving at our requested assessed value. Using typical norms, the supplementary assessed value of the subject property would be \$13,819,000. The Supplementary Assessment \$17,840,000 shows a disconnect in assessed value of over \$4,000,000.

**What the Respondent said:**

The assessor brought certain arithmetic errors in the Respondent's *pro forma* analysis to the attention of the Board, and informed the Board that the net income of the subject property should be \$6,675,455, not \$6,065,322 as shown, and referred the Board to a table showing assessment value per room for five full-service downtown hotels, the Marriot, the Hyatt Regency, the Palliser, the Sheraton Eau Claire, and the Westin, as set forth below. The assessor informed the Board that the PAR \$155 was an overall average, but the PAR's of newer hotels, e.g., the Hyatt and Sheraton, were normalized at \$169.

**2010 ASSESSMENT COMPARABLES**

	Address	Hotel name	YOC	Assessment post 2010 CARB	# of Rooms	Asst/Room
Subject	899 Centre Street S.W.	Le Germain	2010	\$33,847,000	144	\$235,049
Comp. 1	110 9 Ave S.E.	Marriot	1973	\$52,660,000	384	\$137,135
Comp. 2	700 Centre Street S.E.	Hyatt Regency	2003	\$96,330,000	355	\$271,352
Comp. 3	133 9 <sup>th</sup> Ave. S.E.	The Palliser	1930	\$72,280,000	405	\$178,469
Comp. 4.	255 Barclay Pr. S.W.	Sheraton Eau Claire	2000	\$64,873,000	232	\$200,845
Comp. 5	320 4 <sup>th</sup> Ave. S.W.	Westin Hotel	1964	96,570,000	525	\$183,943

**The Relevant Issues:**

1. What sort of room rate should be used in arriving at a fair and equitable Supplementary Assessment of the subject property?
2. What is a fair and equitable Supplementary Assessment for the subject property?

**Complainant's Requested Value:** \$13,819,000.

**Board's Decision in Respect of Each Matter or Issue:**

Generally, typical values are used in assessing property, and not surprisingly, the use of typical values is a cornerstone of mass appraisal. The Board accepts the Complainant's evidence that the actual room rate for the subject property is \$129 per room, but that is not a typical rate, and appropriately, the Complainant has not suggested using it in arriving at an alternative supplementary assessed value for the subject property. Instead, the Complainant has advocated a higher room rate of \$155, based on the rates of other downtown hotels. The Respondent, on the other hand, has ignored a principle of mass appraisal by using a room rate based on the "asking" room rates of the subject property. In the Board's view, asking rates are often a far cry from actual rates, hence an even farther cry from typical rates. In the result, the Board finds for the Complainant. The typical room rate of \$155 is, in all of the circumstances, the best foundation on which to build a fair and equitable assessment for the subject property.

Now to the assessed value. The Complainant's analysis, using the typical room rate of \$155, and using the same industry norms as the Respondent's, but adjusted where appropriate, results in an annual income for the subject property of \$3,130,979, which, when capitalized at the typical rate of 10.5%, results in an assessed value for the subject property of \$29,819,000, as rounded. Subtracting from that the land value of \$16,000,000 leaves an improvement value of \$13,819,000 for the Supplementary Assessment. Dividing the Supplementary Assessment by 12 results in a per-month amount of \$1,151,583, which, when multiplied by 7 (the number of months the improvement was complete in 2010) results in a pro-rated Supplementary Assessment of \$8,061,083.

**Board's Decision:**

In the Board's view, assessments based on arbitrary assumptions regarding basic values are unsupportable. The Complainant's approach, using typical rates, is the right way. It is the decision of the Board that the overall assessment of the improvement on the subject property be reduced to \$13,819,000, and commensurately, the Supplementary Assessment be reduced to \$8,061,083.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF May 2011.



Ted Helgeson  
Presiding Officer

**Exhibits entered**

Exhibit C-1: The submission of the Complainant.

Exhibit R-2: The Assessor's Assessment Brief.

Exhibit C-2: The Complainant's Rebuttal.

*An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.*

*Any of the following may appeal the decision of an assessment review board:*

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

*An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to*

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*