

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

**between:**

***The Bed & Breakfast Inn Corporation  
(as represented by Altus Group Limited), COMPLAINANT***

**and**

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

**before:**

***J. Krysa, PRESIDING OFFICER  
D. Pollard, MEMBER  
B. Kodak, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>067213694</b>
<b>LOCATION ADDRESS:</b>	<b>1128 Memorial Drive NW</b>
<b>HEARING NUMBER:</b>	<b>61241</b>
<b>ASSESSMENT:</b>	<b>\$2,560,000</b>

The complaint was heard on July 11-12, 2011, in Boardroom 12 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- D. Hamilton; P. Milligan (Counsel)

Appeared on behalf of the Respondent:

- T. Johnson; S. Cook; P. Frank (Counsel)

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

In response to a request by Counsel for the Respondent, the Complainant's witness, D. Hamilton, and the Respondent's witnesses, T. Johnson and S. Cook, were sworn in by the Board.

The Board heard argument with respect to qualification of witnesses from both parties.

The Board accepts D. Hamilton (witness for the Complainant), is not an expert witness, however, is qualified to give opinion evidence with respect to the assessment of hotel properties as a result of extensive experience in reviewing hotel assessments. There was no objection to this qualification by the Respondent.

The Board accepts T. Johnson and S. Cook (witnesses for the Respondent), are not expert witnesses, however, are qualified to give opinion evidence with respect to the assessment of hotel properties by virtue of their delegated authority pursuant to section 284(1)(d) of the Act, and further, with respect to S. Cook, as a result of extensive experience in preparing hotel assessments. There was no objection to this qualification by the Complainant.

**Property Description:**

The subject property is a 19 room hotel, constructed in 1999 and recently renovated into a "boutique" hotel known as the Kensington Riverside Inn. Amenities include a 40 seat restaurant and a 30 seat lounge.

**Issues:**

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment
4. an assessment class

At the commencement of the hearing the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter 3, an assessment amount.

The Complainant set out 13 grounds for the complaint in section 5 of the complaint form with a requested assessment of \$1,282,000, however, at the hearing the Complainant withdrew all but the generic grounds numbered 1 – 3, relating to market value, and fairness and equity, and the 6<sup>th</sup> and 7<sup>th</sup> unnumbered grounds, relating to the use of the subject's actual financial data, rather than data adjusted by the assessor to reflect typical hotel performance [C1, p.11].

On pages 5 to 7 of exhibit C1, the Complainant set out 3 grounds for the complaint, however, at the commencement of the hearing the Complainant withdrew grounds numbered 1 and 3, leaving only the following issue before the Board:

- The actual income and expenses should be recognized. The expense adjustments to typical are too great.

**Complainant's Requested Value:**

The Complainant's evidence set out the requested assessment at \$1,282,000; however, the Complainant revised the request to \$1,095,000 as a result of abandoning grounds 1 and 3.

**Parties' Positions:**

The Complainant argued that the assessor's adjustment to the subject's food and beverage expense ratio was excessive and inequitable, as similar adjustments were not made to other full service hotels located in the downtown core of the municipality. The Complainant submitted that the subject's actual stabilized food and beverage expense of \$782,553, representing 89.41% of the corresponding food and beverage revenues was adjusted downward by the assessor in the income approach analysis to \$502,075, representing 57.36% of the corresponding food and beverage revenues.

The Complainant argued that the actual food and beverage expense ratio evident in the subject property is not significantly atypical in relation to other full service hotels in the downtown core of the municipality, and that similar adjustments were not made in the assessment calculations of those properties. In support of the argument, the Complainant provided a comparison of four full service hotels exhibiting the following food and beverage expense ratios, and the assessor's adjustments to those ratios, where adjusted.

<b>Hotel</b>	<b>Marriott</b>	<b>Sheraton Eau Claire</b>	<b>Hotel Arts</b>	<b>Fairmont Palliser</b>	<b>Average</b>
Actual Stabilized Expense Ratio	115.5%	80.40%	89.70%	80.30%	91.48%
Assessed Expense Ratio	98.27%	80.40%	89.70%	80.30%	87.17%

The Complainant also argued that the actual food and beverage revenues and expenses reflect the subject's unique operating characteristics as a result of the operation of the hotel in 2007 as a "bed and breakfast" which included free breakfasts for guests; subsequent to 2007 the ongoing renovations affected the revenues and expenses, and currently the subject's food and beverage department operates as an upscale restaurant. The Complainant argued that, as a result of all of these operating characteristics the food and beverage expense ratio of the subject property is unique and should not be adjusted to reflect industry norms, or in this instance to a level below the industry norm of 70.2% of revenues. Further, the industry norms relied on by the assessor are established from an Alberta wide survey and are not reflective of the typical expense ratios found in the municipality, as evident in the average expense ratio of the above properties of 87.17% [C1,p.6].

The Respondent agreed that the subject property was unique as a result of the operating characteristics identified by the Complainant, and argued that adjustments to reflect industry norms were therefore inappropriate. Further, as the Complainant's four comparable hotels demonstrated fairly stable and consistent revenue and expense data over the years, they were not comparable to the subject property, which exhibited major fluctuations due to operational changes during the analysis period.

Notwithstanding the above, the Respondent argued that the Complainant's requested value of \$1,095,000 is unrealistic as it does not even reflect the value of the underlying lands, and includes no contributory value of the improvement, a relatively new hotel recently renovated to luxury standards. In support of the argument, the Complainant provided 3 sales of nearby properties, one of which involved three individual parcels, with details as set out below:

<b>Property Address</b>	<b>Sale Price Sale Date</b>	<b>Improvement Description</b>	<b>Building Size</b>	<b>Sale Price per Sq. Ft.</b>	<b>Lot Size</b>	<b>Sale Price per Sq. Ft.</b>
<b>1221 Kensington Road NW</b>	<b>\$5,500,000 Apr-09</b>	<b>2 Storey Retail</b>	<b>18,368</b>	<b>\$299</b>	<b>8,993</b>	<b>\$612</b>
<b>1210 Kensington Close NW</b>	<b>\$1,000,000 Apr-09</b>	<b>973 sq.ft. House</b>	<b>973</b>	<b>\$1,028</b>	<b>4,745</b>	<b>\$211</b>
<b>1191 Kensington Crescent NW</b>	<b>\$1,000,000 Apr-09</b>	<b>760 sq.ft House</b>	<b>760</b>	<b>\$1,316</b>	<b>5,257</b>	<b>\$190</b>
<b>Total</b>	<b>\$7,500,000</b>				<b>18,995</b>	<b>\$395</b>
<b>1127 Kensington Road NW</b>	<b>\$2,000,003 May-07</b>	<b>Office</b>	<b>2,614</b>	<b>\$765</b>	<b>5,665</b>	<b>\$353</b>
<b>1125 Kensington Road NW</b>	<b>\$1,020,000 Jul-01</b>	<b>Office/Retail</b>	<b>7,230</b>	<b>\$141</b>	<b>2,700</b>	<b>\$378</b>

The Respondent submitted that the three sales demonstrate that neighbouring properties, with improvements significantly inferior to that of the subject trade at a range of \$353 to \$395 per square foot of land area, in contrast to the Complainant's request of \$95.09 per square foot for the subject property (\$1,095,000 / 11,516 sq.ft.). The Respondent further submitted that the April 2009 sales of 1210 Kensington Close NW and 1191 Kensington Crescent NW, each at \$1,000,000, demonstrate an average vacant land rate of \$200 per square foot, supportive of the assessed land rate of \$195 per square foot applied in the vicinity of the subject property. The Respondent argued that this rate, applied to the subject land area would indicate a vacant land value of \$2,245,620; in contrast to the Complainant's requested assessment of \$1,095,000 for the land and improvements combined [R1, pp.34-36].

The Respondent also provided nine equity comparables to illustrate that significantly inferior properties were assessed at rates reflecting \$195 per square foot applied to the land area, and argued that the Complainant's requested assessment would be inequitable with other properties in the vicinity of the subject; however, during cross examination the Respondent conceded that one of those comparables was assessed below the rate applied to vacant land [R1, p.30].

The Respondent argued that there was no rebuttal evidence submitted by the Complainant to disprove the \$195 per sq.ft. land rate applicable to the subject lands, and further provided several decisions of the Calgary Assessment Review Board wherein the Board rejected the lower value as determined by the income approach in favour of the value of the underlying land as indicative of the market value of the properties [R1, pp.41-112].

In rebuttal, the Complainant argued that all hotels were assessed using the income approach to value, therefore it would be inequitable to establish the assessment of the subject property by an alternate methodology, in this instance a vacant land value approach.

**Board's Decision:**

The Board finds that the Complainant's request of \$1,095,000 is unrealistic in relation to the underlying land value of the subject property, and would be inequitable with adjacent and neighbouring properties that are for the most part, assessed at or above current land values.

The Board does not find the Complainant's income approach valuation compelling as the value conclusion amounts to significantly less than that of the underlying land value. In such an instance the Board would expect another approach to value be employed, to test and confirm the income approach value conclusion.

Further, the Board finds that the Complainant's apportioned real estate value is unrealistic in relation to the value allocated to the business and personal property (chattels). The Board notes that the income deducted for non-realty components, \$219,885 represents 63.5% of the total net operating income, resulting in only \$126,008 or 36.5% of the income being capitalized into the real estate value conclusion. This approach exhibits the following capitalized component values, and would suggest that the hotel "business" is thriving while operating within an improvement that does not even support the underlying land value of the property.

	Income Attributed	Capitalization Rate	Component Value	Value Per Room
Business Value and FF&E*: \$219,885		11.5%	\$1,912,043	\$100,633
Value of Real Estate \$126,008		11.5%	\$1,095,721	\$ 57,669

(\*Furniture, Fixtures and Equipment)

The assessment is confirmed at **\$2,560,000.**

DATED AT THE CITY OF CALGARY THIS 30th DAY OF August, 2011.

  
J. Krysa,  
Presiding Officer

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Submission
2. R1	Respondent's Submission

*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.*