

**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:

**582379 Alberta Ltd. and 582388 Alberta Ltd.
(as represented by A.E.C. International Inc.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
B. Jerchel, MEMBER
A. Blake, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of the property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	032034407
LOCATION ADDRESS:	2481 39 Ave NE
HEARING NUMBER:	68448
ASSESSMENT:	\$8,740,000

The complaint was heard on July 16, 2012, in Boardroom 1 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- B. Ryan, L. Shaw-Brotherston

Appeared on behalf of the Respondent:

- D. Grandbois

Board's Decision in Respect of Procedural or Jurisdictional Matters

[1] The Complainant requested that this complaint be heard concurrently with three other complaints scheduled to be heard by the Board on July 16, 2012, as the Complainant intends to put forth a global argument in respect of the Respondent's methodology in preparing the assessments. The Respondent did not object to the Complainant's request to have all four complaints heard concurrently.

The Board allowed the Complainant's request; the complaints were heard simultaneously.

Property Description

[2] The subject property is a 1.86 acre parcel of land improved with a three storey, 106 room limited - service hotel. The property was constructed in 1999, and is known as the Country Inn and Suites. The total assessment equates to a unit rate of \$82,452 per room.

Issues

[3] The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment amount

[4] The Complainant set out 6 grounds for the complaint in section 5 of the complaint form with a requested assessment value of \$5,820,000; however, only the following issue was in dispute at the hearing:

Issue: The subject property's marketing expenses are understated in the valuation calculation.

Complainant's Requested Assessment

At the hearing, the Complainant requested an assessment of \$5,820,000.

Board's Decision in Respect of the Issue

[5] **Global Argument:** The Complainant's global argument is that the Respondent's process of normalizing a hotel's operating expenses inflates the assessed net operating income of some properties beyond the actual stabilized income of the properties. The Complainant argued that the result of this variance is that the property assessments exceed the indicated market value of the subject properties as determined by each property's actual stabilized income by 39% to 50%. The Complainant conceded that the normalization process has been applied in an equitable manner; however, the Complainant argued that consideration should be provided to those properties exhibiting a significant variance from industry norms (outliers), to conclude an assessed expense allowance within 5% of the actual stabilized expenses incurred.

2009: \$457,718	2010: \$419,771	2011: \$443,426		
*Stabilized:	20%	30%	50%	Expense: \$439,188

[10] In response to the Complainant's position, the Respondent argued that the marketing expense for the subject has been uncharacteristically high for several years, and well before the closure of Barlow Trail. Further, the net operating income of the subject property has not declined since the closure of Barlow Trail, but rather, has increased significantly. The Respondent also argued that the Complainant's comparison of the subject's financial data to that of full service properties is immaterial, as the different classes of hotels would exhibit different operating characteristics and expense ratios.

Decision

The Board finds that the subject property's marketing expenses are understated in the valuation calculation.

[11] The Board rejects the Complainant's global argument in respect of relying on a property's actual stabilized income, or adjusting the actual stabilized expenses to an amount within 5% of the actual stabilized income, rather than the Respondent's normalized methodology as documented in the provincial hotel/motel valuation guide. The Complainant's proposed approach would not reflect "typical" conditions for properties similar to the subject, and therefore would not meet the requirements of the legislation.

[12] Section 2 of *Matters Relating to Assessment and Taxation Regulation, AR 220/2004*, sets out the criteria for preparing assessments.

- 2 An assessment of property based on market value
 - (a) must be prepared using mass appraisal,
 - (b) must be an estimate of the value of the fee simple estate in the property, and
 - (c) must reflect typical market conditions for properties similar to that property.

Mass appraisal is defined in section 1 of *Matters Relating to Assessment and Taxation Regulation, AR 220/2004*

- 1 (k) "mass appraisal" means the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing;

[13] The Board accepts that the Respondent has equitably adjusted the subject's marketing expenses to reflect typical market conditions of limited service hotels (properties similar to that property), and there is no evidence before the Board to demonstrate that a marketing expense ratio equating to 13.9% of total revenues is typical of limited service hotels.

[14] Notwithstanding the Respondent's adjustment to typical industry norms, the Board finds that the subject property is atypical in respect of the subject's food and beverage expense associated with providing a free breakfast, and in respect of the operation of a shuttle bus. The Board notes that there is no food and beverage expense indicated in the limited service PKF industry norms, and there was no evidence provided to the Board to suggest limited service hotels typically offer shuttle services, therefore the Board concludes that the Respondent's industry norm expense ratio of 3%, excludes these expenditures.

[15] The Board is further persuaded by the Respondent's evidence that the subject property is "outperforming" the indicated industry norm "RevPAR" (Revenues Per Available Room) by approximately 20%, [page 23 of R1]. In view of that, the Board accepts that it is not unreasonable to surmise that increased marketing expenditures may, in part, explain the subject's superior performance in contrast to the industry norms. Although it may be argued that it is a management decision to offer no cost promotions and services to attract clientele, the impact of this decision is evident in the revenues realized. Consequently, the Board accepts that the related expenses are a legitimate business expenditure that should be deducted, as it would be unreasonable to include the increased revenues resulting from services and promotions, but exclude the costs associated with providing those services and promotions.

[16] Further, although it is not the Board's role to speculate on where these expenses should be deducted, the Board notes that if the cost of free breakfasts were included as a food and beverage expense, comparisons to "typical" expense ratios for the other expense categories would not be impacted.

[17] Accordingly, the Board finds the following expenses are legitimate marketing expenses:

Advertising and Promotions	\$ 35,020
Complimentary Breakfasts	\$111,765
Shuttle Service Costs	<u>\$135,073</u>
Total	\$281,858
Less "Industry Norm" expense assessed	\$104,029
Additional "Atypical" expenses allowed	\$177,829

[18] The Board was not persuaded that the Complainant's other indicated expenses should be deducted, as it is unclear if they are representative of typical operating expenses, or if they have been included in other expense categories. For example, there is no evidence to confirm that the average corporate marketing fees (2.5% of room revenues) and loyalty program points and amenities related to the franchise agreement, are not accounted for in the stabilized franchise fee expense of \$124,587. Likewise, there is no evidence that the sales manager salary is not accounted for in Administration and General expenses, or in the hotel's overall management expenses. As hotel operating expenses can be recorded in various ways amongst hotel properties, the Board would have found it helpful if the full income and expense statements were provided, and not just the summary totals.

The assessment is **REVISED** from: \$8,740,000 to: **\$7,386,500.**

DATED AT THE CITY OF CALGARY THIS

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DAY OF SEPTEMBER, 2012.



J. Krysa,
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission
3. C2	Complainant's Rebuttal 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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Hotel	Income Approach	Expenses (Actual v. Typical)