

**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:

***Pasutto's Hotels (1984) Ltd.***  
***(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>757121801</b>
<b>LOCATION ADDRESS:</b>	<b>400 Midpark Way SE</b>
<b>HEARING NUMBER:</b>	<b>63326</b>
<b>ASSESSMENT:</b>	<b>\$10,000,000</b>

The complaint was heard on July 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:

- D. Grandbois; 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 witness, D. Grandbois, were sworn in by the Board.

**Property Description:**

The subject property is a 154,625 sq.ft. (square foot) parcel of land improved with a four storey, 103 room, limited-service hotel, constructed in 2001 and known as the Wingate Inn, and a 7,654 sq.ft. freestanding restaurant, and paved surface parking.

**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 12 grounds for the complaint in section 5 of the complaint form with a requested assessment of \$8,000,000, however at the hearing the Complainant's evidence and argument related to only the following issue:

The financial data of the subject property up to June 30, 2010, should be given consideration in the income analysis for assessment purposes.

**Complainant's Requested Value:**

The Complainant's evidence set out the requested assessment at \$8,855,000.

**Parties' Positions:**

The Complainant argued that the assessor failed to consider the most recent financial data up to the legislated valuation date of July 01, 2010 in the income analysis for application in the income approach to value, and as a result, failed to reflect a recent decrease in net operating income in the assessment of the subject property. In support of this argument, the Complainant provided three spreadsheets detailing the Statement of Earnings for the 12 month periods ending June 30, 2008, June 30, 2009, and June 30, 2010, which exhibited net operating income (before non-realty deductions) as follows: [C1, pp.32-24]

12 months to June 30, 2008:	\$1,777,783
12 months to June 30, 2009:	\$1,476,325
12 months to June 30, 2010:	\$1,136,656

These levels of income were compared to the net income (before non-realty deductions) set out in the assessor's Valuation Proforma Analysis, as follows: [C1, p.15]

12 months to December 31, 2007:	\$2,094,424
12 months to December 31, 2008:	\$1,503,185
12 months to December 31, 2009:	\$1,373,664

The Complainant further argued that the assessor's "calendar year" methodology excluded relevant income from the first six months of 2010, but included the significantly higher income of the first six months of 2007; some 36 to 42 months prior to the valuation date and much less relevant in a current income valuation.

The Complainant accepted the assessor's selected weighting of the income periods of 10% (2007); 30% (2008); 60% (2009) as appropriate, and applied those weightings to the 12 month periods ending June 30, to arrive at the requested assessment.

The Complainant also submitted a Calgary Assessment Review Board decision, CARB 1374/2010-P in respect of the subject property's 2010 assessment complaint, and argued that the Board in that instance had ruled in the Complainant's favour on precisely the same issue as the current matter before the Board [C1, pp.41-45].

The Respondent argued that the Calgary Assessment Review Board decisions referenced by the Complainant were rendered in the fall of 2010, and there was insufficient time to collect and analyze data to the valuation date of July 01, 2010 for the 2011 taxation year. As a result, the Respondent submitted that the assessor attempted to follow the spirit of the Board's decisions, and reflect the change in the market by changing the weightings applied to the 3 calendar years of income from 20% (2007); 30% (2008); 50% (2009), to 10% (2007); 30% (2008); 60% (2009), therefore applying more weight to the most recent income level, and significantly less weight to the most dated income level.

In support of the assessment, the Respondent submitted a RealNet document summarizing the recent sale transaction of the subject property in October 2009 at a value of \$15,123,459; a value that would include both the non-assessable business component, as well as the assessable real estate.

**Board's Decision:**

The Board finds that the financial data of the subject property up to June 30, 2010, should be given consideration in an income analysis for assessment purposes.

*Matters Relating to Assessment and Taxation, AR 220/2004*, sets out the legislated valuation date of July 01, 2010, for taxation in 2011.

**3.** *Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.*

**1.** *In this Regulation,*

**(f)** *"assessment year" means the year prior to the taxation year*


The Board accepts the Complainant's argument that an estimate of value on July 01, 2010 must consider recent data up to (and including) the valuation date, as this data would obviously be relevant to the parties in a real estate transaction of the property on the valuation date. Further, the Board notes that the assessor typically relies on market data (rents, vacancy rates, capitalization rates) that are reflective of the legislated valuation date for other types of revenue producing properties; it would appear to be inequitable to ignore market data as of the valuation date for only this class of property.

The Board accepts that the Respondent attempted to recognize the change in the market by altering the weighting applied to the historical data from 20% (2007); 30% (2008); 50% (2009), to 10% (2007); 30% (2008); 60% (2009), however the actual financial data in the Complainant's evidence demonstrates that this approach was insufficient in capturing the full extent of the change in financial performance of the subject property at the legislated valuation date. As there was no evidence or argument to the contrary, the Board considered the actual financial data of the subject as being representative of the typical limited-service hotel market in the municipality.

The Board however, does not accept that the Respondent's altered weightings should be applied to the Complainant's recent financial data. The Respondent's testimonial evidence was that weightings were altered to reflect the difference between the 2010 Assessment Review Board's (June 30) methodology and the assessor's calendar year methodology; to apply the altered weightings to the Complainant's recent income statements would be to reflect the reduced income levels twice in the assessment calculation. In this regard, this Board concurs with the decision of the Board in CARB 1371/2010-P, quoted in the Complainant's summary of testimonial evidence, and allows the Complainant's financial data, weighted as follows: 20%: (12 months to June 30, 2008); 30%: (12 months to June 30, 2009); 50%: (12 months to June 30, 2010).

The assessment is revised from \$10,000,000 to **\$9,269,000.**

DATED AT THE CITY OF CALGARY THIS 19<sup>th</sup> DAY OF AUGUST, 2011.

  
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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.*