

**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:

4075447 Canada Inc. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. B. Hudson, PRESIDING OFFICER

B. Jerchel, MEMBER

D. Cochrane, 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 2012 Assessment Roll as follows:

ROLL NUMBER: 058212903

LOCATION ADDRESS: 255 Barclay PR SW

FILE NUMBER: 66902

ASSESSMENT: \$62,070,000

This complaint was heard on the 25th day of September, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *D. Hamilton*

Appeared on behalf of the Respondent:

- *D. C. Grandbois*

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

[1] There were no procedural or jurisdictional matters raised by either of the Parties.

Property Description:

[2] The subject property is a 323 all suites full service luxury hotel known as the Sheraton Suites Calgary Eau Claire, located at 255 Barclay Parade SW in downtown Calgary. The property includes a restaurant and two lounges, an indoor swimming pool and fitness facilities, banquet and meeting facilities, and underground parking. The current assessment based on the capitalized income approach to value, is \$62,070,000.

Issues:

[3] The fairness and equity of the assessment amount was the central issue in this complaint.

[4] Specific adjustments requested by the Complainant to normalize annual expenses to within 10% of typical industry standards and reduce the assessment amount included:

- Increase the stabilized actual expense amount for heat, light and power by approximately 72%.
- Return the expense amount for food and beverage to the stabilized actual amount, an increase of approximately 1%.

[5] Other adjustments requested by the Complainant include:

- Subtract the Franchise Fee from the Marketing expense, and list the Fee as a separate line item.
- The access road to the subject property is owned by the City of Calgary and leased to the hotel owner. The road is assessed under a separate roll number, and the Complainant requested that the assessed land value (i.e. \$985,000), be deducted rather than added to the capitalized income value to arrive at the total assessment value.

[6] The Respondent agreed to resolve two of the items identified as issues by the Complainant by making the following corrections:

- The food and beverage expense amount should have been the stabilized actual amount as requested by the Complainant.
- The assessed value of the access road to the subject which was added to capitalized income value to arrive at the current total assessment, should have been subtracted as requested by the Complainant.

[7] Based on the corrections, the Respondent recommended that the total assessment be reduced to \$59,910,000.

Complainant's Requested Value: \$50,860,000

Board's Finding in Respect of Each Matter or Issue:

Heat, Light and Power Expense Allocation

The Board finds that given the actual annual stabilized expense for heat, light and power for the subject hotel property (i.e. \$681,165), it would be inequitable to increase the annual expense to an amount within 10% of typical (i.e. \$1,176,218) through the "normalization" process. The subject property is not a typical hotel property in the downtown Calgary market, based on a much greater than typical capacity for revenue generation.

[5] The Complainant argued that the stabilized actual expense for heat, light, and power for the subject hotel represents 2.29% of total revenue, while the typical industry standard ratio is 4.40% of total revenue. When 2.29% is divided by 4.40% the result is 52.12%, which is less than 10% of typical. Therefore, the heat, light and power expense should be adjusted to be within 10% of typical as follows:

$$\text{Total revenue: } \$29,665,727 \times 4.4\% \times 90\% = \$1,176,218$$

[6] The Complainant submitted an excerpt from the Alberta Assessors' Association Hotel Valuation Guide circa 1998, in support of the requested expense adjustment, which states as follows:

[7] Valuation data employed should conform within a set range of industry norms. This will provide some flexibility in approach as well as equity and uniformity of results. To deal with this question, two courses of action are recommended:

- If the variance between actual performance and the industry norm is large, it may be advisable to interview the owner or operator of the hotel to determine the cause of the variance, and,

- Where actual stabilized data differs from the industry norm by more than a set amount (e.g. an allowable variance of 10 percent), the stabilized data should be adjusted so that it falls within the allowable range unless there are legitimate reasons for the discrepancy.

[8] The Respondent countered that in respect of the subject property, there are “**legitimate reasons**” to employ the actual annual stabilized expense (i.e. \$681,165), for heat, light, and power in the assessment calculation, rather than the typical expense (i.e. \$1,176,218), calculated as a percentage of total revenue requested by the Complainant.

[9] The Respondent explained that the subject and one other competing downtown hotel (i.e. the Hyatt Regency), generate significantly more revenue than other downtown hotels, and for that reason are not typical in the market. Calculating expense for heat, light and power based on a “typical” percentage of total revenue for these two hotels could result in assessment inequity with the other hotels in the market.

Separate the Franchise Fee From the Marketing Expense

The Board finds that including the Franchise Fee as part of the marketing expense is acceptable in the process of calculating the assessment. The subject hotel property owner included the Franchise Fee in the marketing expense in their response to the Assessment Request for Information (ARFI); and the Assessor took this into account by “normalizing” the marketing expense in the assessment pro forma.

[10] The Complainant requested that the assessment pro forma be altered by separating the stabilized Franchise Fee of \$640,387 from the stabilized marketing expense, and then including the Franchise Fee as a separate operating expense. This would reduce the stabilized marketing expense from \$2,617,475 to \$2,108,957; and increase the “normalized” marketing expense from \$1,892,673 to \$1,895,018.

[11] However, the Respondent noted that because the separated Franchise Fee is not “normalized”, in the same manner as the marketing expense, the Complainant request would also have the effect of increasing the overall operating expense and reducing the assessed Net Operating Income (NOI) attributed to the real estate of the hotel; and ultimately the assessed value.

[12] The Alberta Assessor’s Association Hotel Valuation Guide (page 29 and 30 of Exhibit C2), describes the acceptable procedures for the treatment of Franchise Fees, as an operating expense.

[13] The Guide states in part: “Ideally franchising costs should be entered as a separate line item. Where franchise fees are included as part of marketing, general administration, or management budgets, they may distort that expense item with respect to the industry norms. In these situations, the assessor will either have to make an allowance for the distorted expense item or separate out the franchise fee from the affected expense item.” In the case of the subject property, the assessor chose to make an allowance by “normalizing” the marketing expense to industry standards.⁵

Board's Decision: The assessment is reduced to \$59,910,000 as recommended by the Respondent.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF October 2012.

A handwritten signature in black ink, appearing to read 'T. B. Hudson', written over a horizontal line.

T. B. Hudson
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	Respondent Disclosure

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.*

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<i>Decision No. 1735/2012-P</i>			<i>Roll No 058212903</i>	
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Commercial	Full Service Luxury Hotel	Assessment Amount	Equity