



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 278/10

Russ Reynolds
1773 Denman Street
Victoria, BC V8R 1Y3

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton, AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on September 27, 2010 respecting a complaint for:

Roll Number 9956958	Municipal Address 10149 105 Street NW	Legal Description Plan: 9823001 Block: 4 Lot: 140C
Assessed Value \$29,635,000	Assessment Type Annual - New	Assessment Notice for 2010

Before:

David Thomas, Presiding Officer
George Zaharia, Board Member
Judy Shewchuk, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant

None

Persons Appearing: Respondent

Chris Hodgson, Assessment and Taxation Branch
Cameron Ashmore, Law Branch

PRELIMINARY MATTERS

The Respondent advised that a recent conversation with the Complainant indicated the Complainant would likely attend. Accordingly, the CARB delayed commencement of this hearing until 9:25 a.m. At that time, no further communication being received, the hearing commenced.

ISSUE

The written submission of the Complainant advised that, based on the disclosures now offered to them, the Complainant would proceed on only one issue alleged within the Complaint.

The issue is whether the subject hotel should receive a 3% reduction in income to match a franchise fee deduction given to other flagged hotels.

LEGISLATION

The *Municipal Government Act*, R.S.A. 2000, c. M-26;

S.467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

S.467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- a) the valuation and other standards set out in the regulations,*
- b) the procedures set out in the regulations, and*
- c) the assessments of similar property or businesses in the same municipality.*

POSITION OF THE COMPLAINANT

The Complainant acknowledges that ownership and management for the subject hotel are by the same legal entity and thus no franchise fee exists. The subject property does, however, pay an allocated amount to its head office as a head office fee.

The Complainant states it to be his belief that the Respondent allows a franchise fee of approximately 3% to all flagged hotels in the downtown model and it is therefore illogical and inequitable that a similar allowance is not permitted to the subject property.

The Complainant argues inclusion of an appropriate franchise fee would result in a reduced assessment of \$27,757,391.

POSITION OF THE RESPONDENT

The Respondent states the Complainant is simply in error. The Respondent does not permit a deduction for income for franchise fees unless an actual franchise agreement is in place. Further,

as there is no real industry standard to a franchise fee, the Respondent uses the actual fee, which (for the limited hotels using such fee) can vary from 1% to 7%.

The Respondent states that of the nine downtown full service hotels, only three apply a franchise fee. The Crown Plaza (for whom the Complainant is agent and to which the Complainant refers), the Marriott Courtyard Inn and the Westin. The remaining hotels, including the Hotel MacDonald, Delta Centre Suites, Coast Edmonton House, and Sutton Place, do not have a franchise fee deduction. Accordingly, no reduction in income or assessment is warranted for Coast Plaza.

The Respondent also reserves the right to proceed in an application for costs based on the late withdrawal of most issues for this property after the Respondent had prepared a defense.

FINDINGS OF FACT

Only an actual franchise fee is a permitted deduction from income for hotel valuations in the downtown area.

DECISION

The complaint is dismissed and the assessment is confirmed at \$29,635,000.

REASONS FOR THE DECISION

The Complainant confirms no franchise agreement exists for the subject property. The Respondent has refuted the equitable claim that all flagged hotels received a reduction from income for such a fee. Only hotels that have such an expense (three out of the nine) are allowed to deduct it. The subject property does not qualify, therefore the complaint is dismissed.

DISSENTING OPINION AND REASONS

There were no dissenting opinions.

Dated this 21st day of October, 2010, at the City of Edmonton, in the Province of Alberta.

Presiding Officer

This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, R.S.A. 2000, c.M-26.

cc: Municipal Government Board
Okabe North America Inc