

NOTICE OF DECISION NO. 0284 01-10

**TOWN OF SLAVE LAKE
COMPOSITE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the Matter of the *Municipal Government Act*, being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

And in the Matter of an assessment complaint filed with the Town of Slave Lake 2010 Assessment Review Board.

Between

Sawridge Enterprises Ltd. - Complainant

and

Town of Slave Lake - Respondent

Before

J. Schmidt, Presiding Officer
S. Hennig, Member
R. Ralph, Member

This is an assessment complaint decision of the Composite Assessment Review Board (CARB), from a hearing held at 107, 4990 – 92 Avenue in the City of Edmonton on December 16, 2010 respecting a property assessment entered in the assessment roll of the Respondent municipality as follows.

Roll No.	31220.00
Assessed Value	\$7,691,020
Legal Description	Plan 8522283, Block 7 Lot 1
Municipal Address	1200 Main Street SW

Appearances:

Complainant	Mr. Michael R. McKinney, Executive Director/General Counsel – Sawridge Group of Companies Mr. Jim Hill, Sawridge Hotel Services Manager
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Mr. Kevin Lawrence, appointed municipal assessor for the Town of Slave Lake

Mr. Jeff Cook, Clerk of the Board

The Respondent raised an issue with respect to the Complainant not responding in a timely manner to a request made pursuant to s. 295 of the Act to provide information. It was submitted that a letter of request, dated November 12, 2009 was mailed to the owner/manager of the subject property to provide certain information necessary to complete the 2009 assessment (Exhibit R-1P). The requested information was not supplied until after the assessment was completed. Even though the requested information was not received in time to complete the assessment, which is the subject of this complaint hearing, the information is now available. With the information as provided, the Respondent was prepared to proceed.

Since there was no real dispute respecting this preliminary matter, and the fact that both parties were prepared to proceed with the complaint hearing, the Board ruled that the hearing would proceed.

The subject property includes a full service hotel/motel located on a 9.73 acre parcel of land. The site has a C3 commercial use zoning designation and is assessed as a highway commercial property. This hotel was initially constructed in 1972 followed by two major expansions resulting in the present 175 room full service hotel.

The assessment complaint came forward on grounds the assessment is too high and does not fairly reflect market value of the subject property as of the effective valuation date.

Does the subject property assessment reflect fair market value as of the assessment date?

Legislation

In deciding this matter, reference is made to the particular statutory requirements as follows.

Municipal Government Act

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.

289(1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(2) Each assessment must reflect

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and*
- (b) the valuation and other standards set out in the regulations for that property.*

Matters Relating to Assessment and Taxation Regulation AR 220/2004 (as amended)

Valuation date

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.

Valuation standard for a parcel and improvement

6(1) When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value unless subsection (2) or (3) applies.

Complainant's Position

In support of the Complainant's position a 234 page submission was presented and marked as Exhibit C-1. A rebuttal to the Respondent's submission, consisting of five pages, was entered as Exhibit C-2.

Briefly stated, it was Complainant's position that the income approach used by the assessor was inconsistent with the standard method employed by the assessor/appraiser. In addition, while there was agreement that the hotel/motel guideline should be accepted and used, the assessor failed to apply the guidelines in a fair and equitable manner.

Unlike other income generating properties which have extended term leases, revenue generated from hotel properties rely upon short term stays. As such, a drop or increase in occupancy produces an immediate and corresponding drop or rise in revenue. As well, the hotel industry is cyclical in nature and is highly dependent on the national and local economy and other competing hotel accommodations. Even though some 62 rooms of the 175 have been renovated, as the oldest hotel in Slave Lake, deferred maintenance is an issue, lower than average occupancy rates are being experienced and room rental rates have been declining. As a result the

income generated is substantially lower than previous years resulting in a much lower property market value than the municipal assessor has determined.

To account for the cyclical nature of the hotel industry a three year net income is average based on a percentage factor for each of the most recent three years leading up to the assessment valuation date. A percentage ratio at 70% for the most recent year combined with 20% for the second year and 10% for the third distant year has been established for the City of Edmonton. To be fair and equitable, this ratio should be applied to the subject property in capitalizing the three year average net income into property market value.

The assessor has taken the restaurant banquet facilities, meeting rooms, small retail area, etc. and applied a retail lease rate, which was capitalized separately from the balance of the hotel property. This is a deviation from the accepted hotel/motel valuation guide and results in an overstated market value.

It was argued that the proper procedure to determine market value is provided in the guide as shown on page 87 of Exhibit C-1. By utilizing the latest stabilized three year average net income based on the 70-20-10 formula a revised estimate of market value at \$3,789,854 is provided on page 31 of Exhibit C-1.

Even though the most recent income and expense data, shown on page 32 of Exhibit C-1, indicates a market value at \$2,893,680 for the subject property, to be fair and equitable the assessment should be based on the three year average formula.

It was therefore requested that the subject property assessment should be reduced to \$3,800,000 from \$7,691,020.

Respondent's Position

In support of the Respondent's position, Exhibits R-1, (1 page), R-2 (8 pages) and R-3 (3 pages) were entered. The Respondent submitted that the subject property was assessed having regard to the hotel/motel valuation guide. Unlike the other hotels in Slave Lake, the subject property was unique as a full service hotel. As such, the portions of the hotel which were different than the typical were separate and valued based on comparable space lease rates capitalized into an indication of market value which was added to the balance of the hotel capitalized room revenue. The Respondent submitted that a three year average ratio was applied to all the hotels in Slave Lake at the percentage ratio of 50-30-20. This percentage ratio was established and used in previous assessment years.

To change the ratio for the subject property as the Complainant suggested would result in an inequitable assessment with the other hotels in Slave Lake. It was offered that as a result of the receipt of the s. 295 requested information, a revised typical occupancy rate at 40.50% was indicated in place of the original 55.00%. This resulted in a revised assessed value at \$7,097,109 from \$7,691,017. It was proposed that the subject assessment be amended accordingly.

Having given careful consideration to the evidence, argument and fact which came forward in this case, the Board makes the following decision with reasons.

Finding

The subject property assessment does not reflect fair market value as of the assessment date.

Decision

The complaint is allowed to the extent the assessment be revised as proposed by the Respondent.

Reasons

The decision was made having regard to the accepted Hotel/Motel Valuation Guide. In particular, a three year income average based on the most recent three years, leading up to the assessment date was accepted by both parties. While the three year average was accepted, the percentage per year was in dispute. The Complainant suggested that the ratio which is used in the City of Edmonton, should be at 70-20-10 to be equitable, declining from the most recent year. The Respondent submitted that a 50-30-20 ratio was applied not only to the subject property but to all the hotel/motel properties in Slave Lake and as such provides an equitable ratio. It is noted that the application of a 70% versus a 50% factor in the most recent year would have a substantial different effect on the annual estimate of market value for assessment purposes.

In this case a 50-30-20 ratio has been applied in determining the subject property assessment. This same ratio has been applied to like properties in the Town of Slave Lake and has been applied at the same ratio in previous assessment years. With this in mind the Board is satisfied that rather than using a 70-20-10 ratio which was used in other municipal assessments, the ratio of 50-30-20 is fairly applied and would provide an equitable assessment relationship with like properties in the Town of Slave Lake.

The Complainant submitted that the capitalized income method used by the assessor deviated from the normal practice of assessing hotels where income from all sources is capitalized using one capitalization rate for a final estimate of market value. The Respondent separate the room income portion of the hotel, gave a 15% discount for the unique factors associated with the property and capitalized the net room revenue to determine the value of the room portion. The restaurant, banquet room, conference rooms and tavern were valued based on a triple net lease rate for retail type space capitalized at the typical capitalization rate for similar type space. This value was added to the room portion of the hotel for a final estimate of market value.

In this case in the interest of a fair and equitable assessment, the Board is satisfied that the method of determining market value for the subject property should be based on income from all sources capitalized as the Complainant submitted.

Based on information as supplied by the Complainant, following a request by the Respondent, it was determined that the typical occupancy rate at 55.00% as applied in the original valuation should be changed to 40.50%. Since this would have the effect of reducing the original

assessment and there was no disagreement by the Complainant, the Board accepted the suggested revision.

By adoption the three year average income as submitted by the Complainant, applying the 50-30-20 average ratio a net operating income at \$1,137,813 is indicated.

Based on the evidence as submitted, the Board is satisfied that the proper capitalization rate is 13.5%. When this capitalized rate is applied to the net operating income of \$1,137,813 an estimated value at \$8,428,518 is determined. As a unique hotel property the assessor provided a 15% obsolescence factor which the Board accepts. By applying this factor a final estimate of market value at \$7,164,200 is indicated. This value is very close to the estimate of market value at \$7,097,000 as proposed by the Respondent.

Accordingly the assessment is fixed at \$7,100,000.

It is so ordered.

No costs to either party.

Dated this 7th day of January 2011.

COMPOSITE ASSESSMENT REVIEW BOARD



J. Schmidt, Presiding Officer

cc: Composite Assessment Review Board, Municipal District of Big Lakes

This Decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470 of the Municipal Government Act, R.S.A. 2000, c.M-26. This section requires an application for leave to be filed with the Court of Queen's Bench within 30 days of receipt of this decision.