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:

Calgary Charlotte Holdings Company
(as represented by Altus Group Ltd.), COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

J. Dawson, PRESIDING OFFICER
J. Mathias, BOARD MEMBER
Y. Nesry, BOARD MEMBER

This is a complaint to the Calgary Composite Assessment Review Board [*CARB*] in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER:	**068229301**
LOCATION ADDRESS:	**110 9 AV SE**
LEGAL DESCRIPTION:	**Plan 1323LK; Block 62; Lot A**
FILE NUMBER:	**72461**
ASSESSMENT:	**$ 56,540,000**

This complaint was heard on the 25th day of September, 2013 at the office of the Assessment Review Board [*ARB*] located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *D. Hamilton* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *D. Grandbois* *Assessor, City of Calgary*

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

[1] The preliminary issue is not existent for this hearing, in the same manner as discussed below, because disclosure under section 295 of *the Act* is compliant. However, data from three other properties, which may be excluded, is utilised in this hearing. Therefore, at the request of the Respondent and with agreement of the Complainant, the Board carried forward all evidence, disclosure, questions, answers, and comments from decision CARB-72438P-2013 to this hearing and treated it in the same manner as if heard during this hearing.

Preliminary Hearing CARB 72438P-2013

[2] The Board finds the Complainant is substantially compliant with the Assessment Request for Information issued by the Respondent and directs the hearing to proceed to merit.

Legislative Authority, Requirements, and Considerations:

The Municipal Government Act [*the Act*]
Chapter M-26, Section 460, Revised Statutes of Alberta 2000

Duty to provide information

295(1) *A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed.*

(4) *No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within 60 days from the date of the request.*

Matters Relating to Assessment Complaints [*MRAC*]
Alberta Regulation 310/2009

Failure to disclose

9(3) *A composite assessment review board must not hear any evidence from a complainant relating to information that was requested by the assessor under section 294 or 295 of the Act but was not provided to the assessor.*

Boardwalk Reit LLP v. The City of Edmonton and the Municipal Government Board [*Boardwalk*]
Citation: Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220 [Excerpts]

[94] *The Municipal Government Board expressly made a fact finding: the assessor's request here lacked some clarity. That is clearly correct: see Part K below. And the Board plainly and correctly stated that the assessor had a duty to be clear.*

[95] *However, the Board declined to do anything about the obscurity of the assessor's questions here, because it thought the appellant taxpayer sophisticated. But that is illogical. An ambiguous or vague request is no less ambiguous when a business virtuoso hears it. An education may simply reveal more alternatives or contradictions in the question.*

[96] *The Board then imposed another unreasonable double standard. It ruled that the taxpayer had a duty to ask to clarify the assessor's question, but that the assessor had no duty to ask to clarify the taxpayer's answer (as described above in subpart E.4). An error in logic cannot be reasonable: see subpart G.7 below.*

[130] *We saw in Part E that the Municipal Government Board imposed strict tests on the taxpayer. It treated a reasonable answer or attempt as insufficient. Part E shows that s. 295 authorizes only reasonable information requests, and penalises only unreasonable failure to answer them. Our Court has so held: see Part E.2. Did those errors affect the result? Yes, for several reasons.*

[131] *First, there could be half a dozen different adequate ways for a taxpayer to answer an assessor's information request, especially one calling for income and expense statements. A detailed example is given in Part K.2 below about potential income never earned.*

[132] *Most of the assessor's complaints related to the "income expense statement" demanded and supplied, i.e. accounting. But there are many proper alternative views of how to do accounting. There are at least two different régimes: those under the Income Tax Act, and those under the Canadian Institute of Chartered Accountants' Handbook (G.A.A.P.). And, even within one accounting régime, there are questions of discretion and judgment. Reasonable accountants can differ.*

[146] *Neither the assessor, nor the Municipal Government Board, nor the Court of Queen's Bench, mentioned the policy inherent in any penalty for failure to give information. This problem is common in courts, which have imposed discovery for centuries. Imprisonment or total loss of the lawsuit (striking out pleadings) are possible penalties. But in the last 130 years, they have been rare, even for complete failure to obey discovery orders. Why?*

[147] *Because such penalties are not an end in themselves, they are (at least initially) disproportionate to the gravity of the fault of the defaulter and to the degree of harm to the opposing party. The penalties are a means to an end: getting the discovery. The policy is the same in regulatory bodies. Cf.* ***Toronto Ry. Co. v. Toronto (City)*** *[1920] A.C. 446, 453 (P.C. (Ont.)) (penalty imposed by regulatory body). Even if the defaulter is jailed, he or she can often get out of jail by giving the overdue information, or papers. Usually pleadings are struck out only when previous attempts or other methods have failed. See Riddell J.A. in* ***Harwood & Cooper v.***

Wilkinson *[1930] 2 D.L.R. 199, 201-02 (Ont. C.A.), affd. [1931] S.C.R. 141; 2 Williston & Rolls, Law of Civil Procedure 944-5 (1970). Cf.* ***Sask. Labor Relations Board v. Daschuk Lbr.*** *[1976] 5 W.W.R. 562 (Sask. C.A.);* ***Re Axelrod and Toronto (#2)*** *(1985) 52 O.R. (2d) 440. That can be true even after destruction of evidence; explanations and lesser remedies should be considered and weighed. That is doubly so when good faith is shown:* ***Min. of Community etc. Services v. Crown Employees Grievance Settlement Bd.*** *(2006) 213 O.A.C. 169 (C.A.) (paras. 25-28). That case is judicial review quashing an overharsh penalty for not providing information, and so is on point here.*

[148] *The Reasons of the Municipal Government Board here do more than ignore such policy considerations. They state or plainly imply that the penalty in s. 295(4) is automatic, and operates irrespective of the size or importance of the gap in information (the answer). The Queen's Bench Reasons say that such a view would possibly be unfair and unreasonable. They suggest that the Board held no such view because it would instead accept substantial compliance. But it would not: see Part E above.*

[149] *An automatic bar to appeal triggered by any gap in any answer would leave the taxpayer at the assessor's mercy. An assessor could send a long complex interrogatory, virtually impossible to answer in 60 days. Indeed, multiple interrogatories, one for each property (as here). Then the assessor could comb the answers for gaps. Once he or she found a gap, he or she would be free to assess at the highest figure which would not produce hilarity or impeachment. (Assessment normally comes at a later stage in the cycle than information requests.) Before assessment, any potential appeal from it would already be barred.*

[150] *The Alberta Legislature cannot have intended to deliver all landowners thus into the hands of every municipal assessor in Alberta. There are many municipalities and similar taxing bodies in Alberta. They vary enormously in size, resources, training, sophistication, wealth, and familiarity with their taxpayers. Some taxpayers are popular local residents. Some are unpopular non-residents who cannot vote. At some time or place there will be a feud between a municipal administration and some taxpayer. Some taxpayers are slow, careless, or difficult to deal with. Some assessors may be open to pressure from their municipal employers. So giving life-or-death unilateral and final powers to all assessors would be dangerous.*

[151] *An automatic rigid bar to appeal from any gap in any answer would be an "absurd" interpretation of the Act. The word "absurd" has a special meaning in this context: see Bennion, op. cit. supra, at 831-32 (§312).*

[152] *Therefore each assessor has a power and duty to decide. He or she is not a rubber stamp or cog. The non-automatic nature of the forfeiture is supported by* ***A.-G. v. Parsons****, supra, and* ***Kammins Co. v. Zenith Inv.****, supra. The Municipal Government Act s. 293 tells an assessor to assess in a fair and equitable manner. What if the same assessor also had the power to bar any appeal from his or her assessments? Then his or her statutory duties of fairness and equity would be unenforceable, a mere façade, as hollow as the sonorous national constitution of a dictatorship.*

[164] *The real question is what that duty of fairness requires. Its contents are discussed in* ***Baker v. Min. of Cit. and Imm.*** *[1999] 2 S.C.R. 817, 243 N.R. 22 (paras 21-29). That passage is long, and must be summarized. In other cases, the Court of Queen's Bench has summarized it. One decision on municipal taxation (speaking of the Municipal Government Board, not an assessor) says that the contents of the duty of fairness vary from case to case, but they always depend upon:*

1. *the nature of the decision being made;*
2. *the nature of the statutory scheme and the terms of the statute pursuant to which the body operates;*
3. *the importance of the decision to the individuals affected;*
4. *the legitimate expectations of the person challenging the decision;*
5. *the choices of procedure made by the agency itself.*

*– **Ag Pro Grain Mgmt. Services v. Lacombe (Cty.)**, 2006 ABQB 351, 402 A.R. 199 (para. 35)*

> *Quite similar is our Court's summary in* ***Edm. Police Assn. v. Edm. (City)****, 2007 ABCA 184, 409 A.R. 1, 283 D.L.R. (4th) 695.*
>
> ***[165]*** *This* ***Boardwalk*** *case satisfies each of those five criteria. Each points to the assessor's having to give the appellant a meaningful opportunity to remedy the information problem, defend itself, or both.*
>
> ***[166]*** *For example, what if one page of an answer had been omitted because of an oversight by the taxpayer's clerk, or failure of a computer or photocopier, and could be remedied by an e-mail within minutes? Counsel for the assessor properly conceded that it would not be reasonable for the assessor to object to a complaint against assessment in those circumstances. Curiously, that example is not far-fetched. The appellant or Transcript Management Services has omitted p. 3 of the Municipal Government Board's Reasons from the appeal book. But I would not dismiss the appeal on that ground, even if p. 3 were important (which it is not).*
>
> ***[167]*** *The appellant argues here only one breach of the duty of fairness: the assessor should have told it that certain answers seemed incomplete, and given it a chance to fill the gap.*
>
> ***[168]*** *That very moderate argument easily meets each of the five* ***Baker /Ag Pro*** *criteria above. The evidence showed, for instance, that such communications had been the assessor's policy in past years. The assessor changed that policy without warning.*
>
> ***[169]*** *Therefore, the assessor violated natural justice, and had no right to move to quash all 90 appeals to the Assessment Review Board summarily, without any kind of notice of default to the appellant. See* ***Min. of Community etc. Services v. Crown Employees Grievance Settlement Bd.****, supra (para. 31), also a case about refusal to hear the merits because of missing information.*
>
> ***[170]*** *Furthermore, when the appellant's accountant hand-delivered the answers in question to the official who gave the demand for information, that official promised to tell the appellant of any deficiency. Maybe that official was by then no longer in the relevant multi-residential section, but it does not lie in the assessor's mouth to say that responses to that very official's letter should not go to him. The appellant's answers admittedly reached the assessor himself. The Municipal Government Board and the Court of Queen's Bench thought that conversation and promise somehow legally irrelevant. Maybe they unreasonably thought that he was the wrong official. But the Supreme Court of Canada in* ***Baker*** *found such legitimate expectations relevant. So do I.*

Issues:

[3] There is a single preliminary issue before the Board, which deals with the admissibility of evidence. The Respondent raised an objection as evidence contained within the Complainant's Disclosure Document was not provided when originally requested. Section 295 of *the Act* requires the taxpayer to answer questions regarding the assessment with a penalty for non-compliance.

[4] There are no additional preliminary, procedural, or jurisdictional issues.

Position of the Parties

Respondent's Position:

[5] On July 1, 2012, the Respondent mailed to the CARB 72438P-2013 subject hotel, an "Assessment Request for Information: Hotel/Motel Properties" document [*ARFI*], which was required to be completed and returned to the assessor by August 3, 2012 (33 days). Part 7 of the request form has four questions. Two of the questions lack a response: Reserve for Replacement – Reality; and Reserve for Replacement – Furniture, Fixtures and Equipment [*FF&E*] (CARB 72438P-2013 PR 1, pp. 12-20).

[6] The Respondent received the answer to the questions above at the time of disclosure

and now wishes the Board to exclude the information because it was not disclosed previously when requested.

[7] The Respondent clearly articulated that the remedy under *the Act* section 295(4) is not being sought. In section 295(4) the Respondent may request the Board to deny a person's right to a complaint for failing to respond to the information request.

[8] Instead, the Respondent is requesting under section 9(3) of *MRAC* that certain evidence be excluded within the Complainant's disclosure.

[9] The Respondent indicated that this is a long standing issue with the Complainant and that it is not fair for the Complainant to omit this information when requested and then use it against the Respondent at a hearing later.

[10] The Respondent argues that they have clearly communicated the consequence for non-compliance and the Complainant should not be able to disclose this evidence now.

[11] During questioning, the Respondent explained that if no response is received from a complainant then a reminder letter is sent after 30 days, and if no response is received after 60 days then another letter is sent explaining that they are in non-compliance and have lost their right to complaint. However, the Respondent indicated that if a response is received that is incomplete or has failed to correctly answer a question, no further communication is sent.

[12] The Respondent closed their argument citing that; "*it appears to be a conscious effort to not include this information.*"

Complainant's Position:

[13] The Complainant, through their witness – C. Donkervoort, Controller of the CARB 72438P-2013 subject hotel, indicated that he responded to the *ARFI* within 60 days of the request in the same manner he has done for the past seven years, which included a copy of their financial statements. The questions regarding Reserve for Replacement – Reality, and Reserve for Replacement – *FF&E* were not answered because the form clearly indicated the Respondent wanted income and expense data. The hotel follows the "Uniform System of Accounts for the Lodging Industry" guidelines, which indicate that these reserves are not an income or expense item, rather a transfer of cash to a different account.

[14] The Complainant argued that he is aware of the amount set aside for reserves; however, did not answer the question because it is not an income or expense. The Complainant argues that he is following the industry guidelines and answered the *ARFI* completely.

[15] The Complainant guided the Board through various paragraphs of the ***Boardwalk*** decision to show that the Respondent has a duty to be fair and could have asked a clearer question to illicit a clearer answer, and the Respondent could have notified the Complainant to advise that the answer to certain questions is incornplete or non-sensible (CARB 72438P-2013 PC 1, s. 2, pp. 1-46).

[16] The Complainant requested the Respondent to contact them if there were any questions regarding the response to the *ARFI*. The Respondent chose not to ask for clarity, but, instead wants to deny the Complainant the right to present their evidence (CARB 72438P-2013 PC 1, s. 1, p. 7).

Board's Reasons for Decision:

[17] The Board has provided large excerpts of the ***Boardwalk*** decision within the 'Legislative Authority, Requirements, and Considerations' section above. The Appeal Court of Alberta has spoken on this matter with a great deal of clarity; therefore, there is no need for this Board to write in such detail and length. Put simply, the punishment being sought is not in sync with the crime. The Complainant has for many years responded to the *ARFI* with their financials in the same manner and has never been advised by the Respondent that the information being provided is not the complete information necessary in order for the Respondent to prepare the assessment.

[18] In fact, the Respondent has not relied upon the information being sought for a number of years, instead choosing to use information obtained by a third party report. Clearly the requested information is not necessary because they have created many assessments without it. This year, the information is being used; however, before making that choice, the Respondent should have first insured the information required is actually being reported by the taxpayers. It seems that the concerns expressed by Justice Côté may have come true; "*the assessor could comb the answers for gaps. Once he or she found a gap, he or she would be free to assess at the highest figure which would not produce hilarity or impeachment.*" (***Boardwalk***, para. 149)

[19] The Respondent did not request clarification or notify the Complainant at any time that the Complainant is not in compliance with the *ARFI* request; yet, the Respondent has had the completed Assessment Request for Information in their possession since August 29th, 2012 (for CARB 72438P-2013). The first indication the Complainant had of the alleged non-compliance was on September 7, 2013 (for CARB 72438P-2013), more than a year after the *ARFI* was submitted.

[20] For the Respondent to suggest he does not wish to deny the Complainant their right to complaint under section 295(4) of *the Act* is absurd. In light of the fact that there is the single issue before the Board, and by default, the exclusion of evidence on that issue would amount to the same result – denying a person's right to a complaint.

Merit Hearing

Background:

[21] The subject property is a hotel. "*The category of hotels/motels is a complex property type in that the income they generate, and by extension their value, is derived from a number of assets which in their totality form the going concern value. These assets not only include contributory value from the real property (land and improvements) but also value from non-realty assets in the form of personal tangible property (furniture, fixtures and equipment or 'FF&E') and intangible personal property, i.e. Business Enterprise Value ('BEV').*"

[22] "*It is fair to say that when a hotel/motel property trades in the market place, typically the sale price will include the value of land and improvements and the non-realty assets. But many assessment jurisdictions in North America mandate that only the real property of a going concern enterprise such as a hotel be assessed. As such the value of the non-realty assets must be identified, quantified and separated from the going concern value.*"[1]

[1] Robert J. (Bob) Metcalf and John H. Shevchuk, "*Hotel/Motel Valuation Guide*" (Province of Alberta – Municipal Affairs, 2008), p. 3.

[23] While hotels can be assessed with any of the three assessment methodologies; hotels are typically assessed using the Income Approach to Value stabilising the actual income and expenses over a three year period and normalising certain expenses to the typical for the hotels considered to be comparable. The stabilised and normalised net income is discounted to account for the non-assessable assets and then capitalised to arrive at an assessment value.

[24] In an effort to maintain confidentiality of individual hotel performance, no income or expense data is discussed in this decision.

Property Description:

[25] The subject hotel, commonly referred to as the Calgary Marriott Downtown Hotel, was constructed in 1973. It is a full-service, short-term accommodation property in downtown Calgary. Comprised of 384 guest rooms, the subject includes all the services and amenities expected in a brand-name, high-end hotel property. The subject is also connected to a downtown convention centre for which the hotel provides many services.

Issues:

[26] There is one common issue before the Board dealing with the expense allowance labelled "Less Income to Mgmt & Reserves" on the "2013 Hotel/Motel Property Assessment Summary" (R1, p. 36).

Complainant's Requested Value: $ 52,270,000

Board's Decision:

[27] The Board found the assessment to be $53,350,000 using 9.0% for the typical deduction allowance for management and reserves expense used in the "2013 Hotel/Motel Property Assessment Summary".

Position of the Parties

Complainant's Position:

[28] The Complainant indicated that the typical deduction allowance for management and reserves expense used by the Respondent should be 9.0% versus the 7.5% assessed. For many years the Respondent had used 8.0% and no complaints were filed on that issue. In this assessment year, the Respondent changed the value to 7.5% causing the Complainant to look into the appropriate value, which is actually 9.0% for downtown full-service hotels with greater than 300 guest rooms with a major brand name (C1, p. 5).

[29] The Complainant argues that the Respondent segregates hotels and motels into stratifications and then calculates most values for the parameters in the assessment calculation; however, the allowance for management and reserves is calculated for all hotels/motels without consideration of their stratification (C1, pp. 5-6).

[30] The Complainant explained that their research found; full-service hotels in the downtown with greater than 300 rooms with a major brand have a higher typical deduction allowance requirement for management and reserve expense, than hotels within other stratifications. The Respondent, in arriving at a conclusion of 7.5%, combined all the stratifications within the city to arrive at their value (C1, pp. 5-6).

[31] Furthermore, the Complainant explained the question being asked from hotels and motels is not correct. The Respondent asks for the typical deduction allowance requirement for management and reserve expense; however, most hotels follow the "Uniform System of Accounts for the Lodging Industry" guidelines, which indicate that the reserves are not an income or an expense item, rather a transfer of cash to a different account (C1, pp. 5 and 36-39).

[32] The Complainant reviewed the Respondent's "2013 Hotel Management and Reserves Analysis". Thirty-five (35) hotels, throughout the municipality, reported on 'Income to Management Fee' and seventeen (17) reported on 'Income to Reserves'. Of the thirty-eight (38) total responses, only fourteen (14) reported on both. The Respondent acknowledged that the thirty-eight represented less than fifty percent (50%) of the hotels, meaning more than half did not report on either question. The Complainant suggests the reason is because it is the wrong question and therefore it is not answered (C1, p. 22).

[33] Regardless of the reason, when the downtown hotels are analysed separately, the result is a larger allowance than assessed. The subject hotel has a stabilised management fee of 3.0% and reserves for realty and *FF&E* of 5.0% when convention centre revenue is excluded and 3.46% when you include convention centre revenue (C1, p. 22 and 25). The Complainant argued in summation that; "*when you look at Year Three management fees and reserves of other hotels in the downtown the result supports the request.*"

[34] The Complainant finished their presentation with a request of $52,270,000 (C1, p. 32).

Respondent's Position:

[35] The Respondent reviewed the *ARFI* to show the attached financial statements with the reported values for the subject hotel's reserve calculating to 3.46% of revenue; however, when convention revenue is excluded a value of 5.13% is calculated and reflected in the new analysis (R1, pp. 17-34).

[36] The Respondent explained how the assessment is calculated with income and expenses being stabilised and some expenses being normalised. The four specific lines that do not get normalised are; in departmental expense – other departments, and in undistributed operating expenses – franchise fee, management, and other (R1, p. 35).

[37] The Respondent further reviewed the assessment summary calculation to show that management and reserves are accounted for by way of a city-wide study. The result is then deducted from net income along with typical *FF&E* and intangibles. Finally the net income from real estate is capitalised to arrive at a final estimate of value (R1, p. 36).

[38] The Respondent presented their city-wide study of valuation parameters for hotels/motels, which shows five stratifications; full-service hotels in the downtown, full-service hotels in the suburbs; limited-service hotels in the downtown; limited-service hotels in the suburbs, and motels (R1, p. 45).

[39] The Respondent showed a chart with various downtown hotels revenue per available room [*PAR*] to show that the subject property has a lower than typical *PAR* of nine downtown

properties (R1, p. 38).

[40] The Respondent provided calculations showing the relative value per guest room of nine hotels in downtown Calgary ranging from $116,400 to $235,310 per guest room. The subject hotel is valued at $185,536 per guest room (R1, p. 39).

[41] The Respondent prepared a chart to show six hotels in downtown Calgary and how they reported *ARFI* information. All six returned an *ARFI* to the Respondent; however, four failed to report reserve information. The Respondent included excerpts of returned *ARFI* documents to show that in some cases zero was reported and in others a dash was marked in answer to the reserve questions (R1, pp. 40 and 42-43).

[42] The Respondent rebutted information provided by the Complainant regarding management expense data and demonstrated that the Complainant's chart is not stabilised and therefore not calculated correctly (R1, p. 41).

[43] The Respondent re-presented management and reserve reported information, correcting for errors, eleven (11) downtown hotels with a combined median of 9.24%; however, the Respondent indicated the large amount of non-response are not calculated, as zero and dash responses were simply not counted (R1, pp. 44-4).

[44] The Respondent concluded asking the Board to confirm the assessment as prepared.

Board's Reasons for Decision:

[45] The Board considered the report, presented by the Respondent – "2013 Hotel Management and Reserves Analysis", which had a total of thirty-eight responses. The Board also looked at the six, nine, and eleven hotel analyses focused on by the Respondent within their presentation and evidence.

[46] The Board found the five hotel comparables presented by the Complainant plus one additional hotel provided the best evidence (R1, pp. 33 and 34; C1, pp. 22, 24, and 25). The Board accepted the values for the six properties presented by the Respondent on page 33 of their disclosure with the exception of three values. For the percentage of income dedicated to reserves the Board accepted 5.0% for the property located at 255 Barclay Parade SW and for the property located 133 9 Avenue SW because the witness C. Donkervoort provided direct knowledge and testimony that these properties are managed with identical reserve clauses. The final exception is the property located at 209 4 Avenue SE; the Board accepted the Complainant's disclosure page 25 where four years of data is disclosed. The Board used the data presented and calculated 4.38% using the typical stabilisation formula.

[47] The results from the table below show a 4.26% median for management fee and 5.00% median for reserve, which using the Respondent's methodology, equates to a 9.26% value. Using the same calculation the mean is 8.50%.

Address	Income to Management Fee	Income to Reserve	TOTAL
320 4 Avenue SW	6.36%[A]	0.62%[A]	6.98%
700 Centre St SE	3.29%[A]	5.19%[A]	8.48%
133 9 Avenue SW	4.19%[A]	5.00%[B]	9.19%
110 9 Avenue SE	3.00%[A]	5.13%[A]	8.13%
255 Barclay Parade SW	4.32%[A]	5.00%[B]	9.32%
209 4 Avenue SE	4.52%[A]	4.38%[C]	8.90%
MEAN of 6 Above	4.28%	4.22%	8.50%
MEDIAN of 6 Above	4.26%	5.00%	8.69%
	MEDIANS add to 9.26%		

[A]R1, p. 44

[B]CARB 72438P-2013 C1 p. 28 and testimony

[C]C1 p. 25 (calculated by normalising correctly)

[48] The Board notes that if the management fee is added to the reserve allowance first, the median value is 8.69% and the mean remains 8.50%. Regardless of a choice to accept the 8.69% or the 9.26%; each value is much closer to the requested 9.0% than the assessed 7.5%.

[49] The Board suggests adding the management fee to the reserve allowance prior to finding the mean will produce more accurate results, especially in light of the testimony at the hearing that some hotels take a higher management fee and sacrifice their reserve allowance.

[50] The Board finds the large discrepancy in reported values is likely due to a misunderstanding of the question.

DATED AT THE CITY OF CALGARY THIS 7th **DAY OF** November **2013.**

Jeffrey Dawson

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. CARB-72438P-2013 PR1	Preliminary Issue – Respondent Disclosure – pp. 12-20
2. CARB-72438P-2013 PC1	Preliminary Issue – Complainant Disclosure – 82 pages
3. CARB-72438P-2013 C1	Complainant Disclosure – 90 pages
4. CARB-72438P-2013 R1	Respondent Disclosure – 58 pages
5. C1	Complainant Disclosure – 81 pages
6. R1	Respondent Disclosure – 69 pages

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.

Municipal Government Board use only: Decision Identifier Codes					
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue	
CARB	Jurisdiction/Procedural	Information Exchange	*Insufficient/No Response Request*	*The Act s. 295(4) MRAC 9(3)*	
CARB	Other Property Types	Hotel/Motel	*Cost Approach*	*Management/FF&E*	