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:

Cavalier Enterprises Ltd. (Represented by AEC Property Tax Solutions), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER
K. Farn, BOARD MEMBER
P. Loh, BOARD 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 2014 Assessment Roll as follows:

ROLL NUMBER:	**031005804**
LOCATION ADDRESS:	**2620 – 32 Avenue NE, Calgary AB**
FILE NUMBER:	**74748**
ASSESSMENT:	**$39,420,000**

This complaint was heard by a Composite Assessment Review Board (CARB) on the 23rd day of July, 2014 in Boardroom 1 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- B. Ryan Agent, AEC Property Tax Solutions

Appeared on behalf of the Respondent:

- T. Johnson Assessor, The City of Calgary

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

[1] The Complainant filed its disclosure document with the CARB and the Respondent on May 29, 2014. The Respondent's disclosure was filed July 7, 2014 and a two part Complainant's rebuttal disclosure was filed July 10, 2014. The Complainant made two requests that were acceptable to the Respondent and agreed to by the CARB:

1) That the two part disclosure be carried forward to Files 74765, 74339, 75856 and 76010, all of which were to be heard as part of the same agenda.
2) That part one of the rebuttal disclosure (marked as Exhibit C2A by the CARB) be sealed to restrict public access to information within the document.

[2] Neither of the parties had concerns or objections to the CARB panel as constituted.

[3] There were no jurisdictional matters to be decided by the CARB.

Property Description:

[4] The property that is the subject of this assessment complaint is the Sheraton Cavalier hotel, a 306 room full service hotel on a large corner site on the northeast corner of 32 Avenue and Barlow Trail NE. 33 Avenue NE forms the northerly property line and 26 Street NE passes along the east side. Primary access is from 26 Street but there is a right turn in/right turn out driveway to 32 Avenue. No access is permitted from Barlow Trail. A secondary access/egress driveway is on 33 Avenue. The building was constructed in 1981. There are 12,044 square feet of meeting/conference rooms. There are two restaurants, a pub, a lobby lounge and a gift shop. Most of the 425 on-site parking stalls are open but a few rows of stalls are beneath a concrete deck.

[5] The property is assessed as a full service suburban hotel. Hotel properties are assessed based on property specific revenue amounts with consideration given to industry norms for operating expenses and costs not directly related to the real estate. For the current assessment, the subject is shown to have stabilized total revenue of $19,618,062 and a net income to real estate of $3,449,322. A suburban hotel capitalization rate of 8.75 percent converted the net income into a hotel assessment of $39,420,000 (truncated). The assessment is equivalent to $128,826 per guestroom.

Issues:

[6] The Assessment Review Board Complaint form was filed on February 25, 2014 by AEC Property Tax Solutions on behalf of Cavalier Enterprises Ltd., the "assessed person." Section 4 – Complaint Information had a check mark in the box for #3 "Assessment amount".

[7] In Section 5 – Reason(s) for Complaint, the Complainant stated numerous grounds for the complaint.

[8] At the hearing, the Complainant pursued the following issue:

1) The Sheraton Cavalier hotel competes for guests with many newer hotels in the vicinity of the Calgary International Airport, some of which are located much closer to the airport. Its age and location make it less desirable so it is necessary to offer incentives in order to attract guests plus its maintenance costs are higher. The valuation model treats old and new hotels in the same manner as far as expenses are concerned and that results in properties like the subject being over-assessed because their higher than typical operating costs are not fully accounted for in the assessment valuation. The use of actual revenues and expenses in the valuation model would result in a fairer and proper assessment.

Complainant's Requested Value: $27,170,000

Board's Decision:

[9] The CARB confirms the assessment at $39,420,000.

Legislative Authority, Requirements and Considerations:

[10] The CARB is established pursuant to Part 11 (Assessment Review Boards), Division 1 (Establishment and Function of Assessment Review Boards) of the Act. CARB decisions are rendered pursuant to Division 2 (Decisions of Assessment Review Boards) of the Act.

[11] Actions of the CARB involve reference to the Interpretation Act and the Act as well as the regulations established under the Act. When legislative interpretation is made by the CARB, references and explanations will be provided in the relevant areas of the board order.

Position of the Parties

Complainant's Position:

[12] Exhibit C1, the complainant's disclosure of evidence was filed with the CARB administration and the Respondent on May 29, 2014. On July 10, 2014, after receipt of the Respondent's disclosure, the Complainant filed a two part rebuttal, marked by the CARB as Exhibits C2A and C2B. These rebuttal documents are also to be considered disclosure of rebuttal evidence for files 74765, 74339, 75856 and 76010 which are other hotel assessment complaints to be heard on the same agenda.

[13] The Sheraton Cavalier is one of the largest (306 rooms) and oldest (1981) full service hotels in northeast Calgary. In hotels of this age, there is functional obsolescence in the building. Its location, which was once one of the best, is now inferior due to changes in airport access routes. The operator must spend significant amounts to attract clientele and to maintain the older facility.

[14] The additional costs of operations and maintenance has not resulted in annual improvements in average rate per room and average rate per available room figures:

Year:	2009	2010	2011	2012	2013
PDR	$175.94	$170.63	$165.62	$159.89	$161.57
PAR	$124.95	$112.00	$100.95	$106.53	$117.45

[15] The stabilized three year costs of "marketing and guest entertainment" ($1,264,357) and property operation and maintenance ($2,995,714) have not been taken into account in the assessment due to the assessor's use of industry norms. Management's recorded "property operation and maintenance" cost is only 72 percent of actual expenditure. The remaining 28 percent is added to the capital expenditure ledger by the hotel owner. In the assessment, the allowances for these two expenses were only $971,094 and $1,078,993, respectively.

[16] A comparison of four of the older northeast Calgary hotels shows that "marketing and guest entertainment" expenses were higher than the "norm" that is used in the assessments. For that expense category, the ratios of total revenue ranged from 4.1 to 14.0 percent with an average of 8.3 percent and a median of 7.6 percent. The industry norm applied by the Respondent is only 4.5 percent. For the "property operation and maintenance" category, the ratios showed inequity as well. For the four hotels, this expense ratio was from 4.1 to 15.3 percent with the average at 8.6 percent and the median at 7.4 percent. The industry norm applied by the Respondent is only 5.0 percent. More weight should be given to actual expenses in these categories for older properties such as the subject.

[17] Much of the operations and maintenance expense has been to keep the hotel premises attractive to patrons and to maintain a reasonable level of occupancy in the hotel.

Respondent's Position:

[18] The evidence of the Respondent is contained in the disclosure document marked by the CARB as Exhibit R1 which was filed with CARB administration and the Respondent on July 7, 2014.

[19] The Respondent assesses hotel properties by "normalizing" revenue and expense items. Typically, three years of reported actual revenues are stabilized. Expenses and non-realty amounts are based on industry norms but if actual amounts are significantly different those actual amounts are given some weight. Different hotel operators report items such as management and reserves for replacement in different ways so it is important to base those amounts on industry norms.

[20] For the subject hotel, marketing and guest entertainment and property operation and maintenance are reported at amounts significantly greater than is typical for suburban full service hotels so these are reduced to normal industry amounts with a 10 percent adjustment. 10 percent is the maximum variance adjustment allowed in the valuation model.

[21] The Respondent typically does not accept renovation costs as an expense. The term "refurbishment" used by the hotel management sounds like it refers to renovations. It is the costs of day-to-day upkeep of the hotel that are considered to be operations and maintenance expenses. All hotels must spend money on capital improvements to keep their properties competitive. The Sheraton Cavalier seems to have been making large capital expenditures since about 2011. The norms that are used in the assessments of full service suburban hotels are developed from reported data on 12 hotels, including the subject.

Board's Reasons for Decision:

[22] The CARB finds that the Respondent's assessment method wherein actual revenues and, to some extent, actual expenses are used in making hotel assessments is fair and reasonable. The evidence shows that different hotel operators and managers have different methods of handling finances and reporting revenues and expenses. The assessment model prevents these different accounting practises from impacting individual market value assessments.

[23] The Complainant's position that this is an atypical hotel is not supported by evidence. Nor is argument that older hotels must incur higher expenses in order to successfully compete. The CARB compared data from suburban hotels that are detailed in evidence and finds a general lack of consistency. The argument that older hotels incurred additional management and marketing costs is not supported by the data. Of eight hotels built between 1970 and 1999 (from R1 and C2A), marketing and guest entertainment expense ratios range from 1.1 to 8.7 percent. One of the lowest ratios is from the oldest property (1970 year of construction – 3.7 percent ratio). Property operation cost ratios range from 4.5 to 15.3 percent. The three oldest hotels are below the median ratio for this expense. It is concluded that manager/owner/operator reported information shows little consistency between property types and ages. For this reason, the reasonable approach is to rely on industry norms.

[24] Evidence from the Complainant provided lists and forms from a document entitled "*Uniform System of Accounts for the Lodging Industry*," published by the American Hotel & Lodging Educational Institute. It listed numerous costs that might be included in maintenance and operations expenses but there was no matching breakdown of the expense amounts from the subject's management response to the ARFI. Further, there was no industry support for the allocation of 72 percent of certain costs to operations and 28 percent to a capital expenditure account.

DATED AT THE CITY OF CALGARY THIS 19 **DAY OF** August **2014.**

W. Kipp

W. Kipp

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2A	Complainant Rebuttal – Part 1
4. C2B	Complainant Rebuttal – Part 2

Note: Exhibit C2A was sealed by the CARB

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.

FOR ADMINISTRATIVE USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	OTHER	HOTEL	INCOME APPROACH	EXPENSES