REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 011-2010

IN THE MATTER OF A COMPLAINT filed with the Regional Municipality of Wood Buffalo Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Colliers International Realty Advisors - Complainant

- a n d -

Regional Municipality of Wood Buffalo - Respondent

BEFORE:

Members:
C. Griffin, Presiding Officer
E. McRae, Member
S. Odemuyiwa, Member

A hearing was held on September 24, 2010 in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider complaints about the assessments of the following property tax roll numbers:

Unit No.	Roll Number	2010 Assessed Value	Owner
1	220721	$403,840	TREIT Holdings 4 Corporation
2	220721	$404,020	TREIT Holdings 4 Corporation
3	220721	$380,410	TREIT Holdings 4 Corporation
4	220721	$404,020	TREIT Holdings 4 Corporation
5	220721	$403,840	TREIT Holdings 4 Corporation
6	220721	$303,210	TREIT Holdings 4 Corporation
7	220721	$403,840	TREIT Holdings 4 Corporation
8	220721	$404,020	TREIT Holdings 4 Corporation
9	220721	$380,410	TREIT Holdings 4 Corporation
10	220721	$404,020	TREIT Holdings 4 Corporation
11	220721	$403,840	TREIT Holdings 4 Corporation
12	220721	$394,520	TREIT Holdings 4 Corporation
13	220721	$394,250	TREIT Holdings 4 Corporation
14	220721	$403,840	TREIT Holdings 4 Corporation
15	220721	$404,020	TREIT Holdings 4 Corporation
16	220721	$380,410	TREIT Holdings 4 Corporation
17	220721	$404,020	TREIT Holdings 4 Corporation
18	220721	$403,840	TREIT Holdings 4 Corporation
19	220721	$394,520	TREIT Holdings 4 Corporation
20	220721	$394,520	TREIT Holdings 4 Corporation
21	220721	$403,840	TREIT Holdings 4 Corporation

Unit No.	Roll Number	2010 Assessed Value	Owner
22	220721	$404,020	TREIT Holdings 4 Corporation
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24	220721	$404,020	TREIT Holdings 4 Corporation
25	220721	$403.840	TREIT Holdings 4 Corporation
26	220721	$394,520	TREIT Holdings 4 Corporation
27	220721	$394,520	TREIT Holdings 4 Corporation

APPEARING FOR THE COMPLAINANT:

C. Hartley, Colliers International Realty Advisors Inc.
M. Uhryn, Colliers International Realty Advisors Inc.

APPEARING FOR THE RESPONDENT:

K. Schacker, Regional Municipality of Wood Buffalo
L. Horne, Regional Municipality of Wood Buffalo

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The CARB was provided with very limited information pertaining to the physical characteristics of the properties under complaint; however, the following description was derived from the assessment briefs of both parties.

The subject property consists of 27 condominium titled units that constitute a part of the Nomad Hotel, a 138 unit (excluding the subject units) full service hotel property that is located in downtown Fort McMurray. Each of the subject units feature 2 bedrooms and 2 bathrooms. These particular units are well suited to 'extended stay' hotel guests; however, the rooms are available on a nightly basis for those guests requesting same.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

There was an issue related to the Respondent's failure to properly disclose evidence within the prescribed time frame as outlined in the *Matters Relating to Assessment Complaints Regulation* (MRAC) Section 8(1)(b). The Complainant agreed to allow the Respondent to submit their evidence and proceed with the Hearing in exchange for concessions related to another property scheduled for a Hearing before this CARB on this same date. The Respondent agreed to this proposal.

The CARB accepts this agreement from the two parties and derives its authority to make this decision under Section 10(2) of MRAC.

PART C: ISSUES

The Complainant raised the following matters in section 4 of the complaint form:

X	1. the description of the property or business
X	2. the name or mailing address of an assessed person or taxpayer
X	3. an assessment amount
X	4. an assessment class
X	5. an assessment sub-class
X	6. the type of property
X	7. the type of improvement
	8. school support
	9. whether the property or business is assessable
	10. whether the property or business is exempt from taxation

The Complainant also raised the following specific issues in section 5 of the Complaint form:

Issue 1: The assessed value is not reflective of the income potential of the subject property, and therefore the subject is assessed in excess of market value.

Issue 2: The comparable sales for the subject in the relevant time frame and adjusted for prevailing market conditions, suggests that the assessed value is in excess of market value.

Issue 3: The allowances from Potential Gross Income for the property are insufficient in determining the appropriate Net Operating Income for the subject property.

Issue 4: The capitalization rate used in the preparation of the assessment does not reflect the risk factor and return requirements necessary for the property to transact within the market place between a willing buyer and a willing seller at the most probable price.

Issue 5: The assessment of similar or competing properties suggests that the assessment is inequitable with these and other properties.

Issue 6: The assessment of superior properties suggests that the assessment is inequitable with these and other properties.

Issue 7: The physical condition and attributes of the property has not been properly reflected in the subject's assessed value.

Issue 8: The economic condition of the property has not been properly reflected in the subject's assessed value.

Issue 9: The location and orientation of the property has not been properly reflected in the subject's assessed value.

Issue 10: The input factors used by the assessor in preparing the assessment are erroneous.

Issue 11: The modeling process utilized by the assessor failed to achieve the valuation standards.

Issue 12: Changes to conditions in the investment market have not been properly reflected in the assessment model and therefore the assessed value of the subject property.

Issue 13: Changes to conditions in the economy of the region have not been properly reflected in the assessment model and therefore the assessed vault of the subject property.

Issue 14: An appropriate deduction for business enterprise value has yet been accomplished.

However, as of the date of this hearing, only the following issues, from the above list, remained in dispute: #1, #5, #6, #7, #8, #9, #11, #12 and #13. It should further be noted that the Complainant addressed all of these Issues in common in both their evidence and argument.

Decision with Reasons:

The Complainant contends that the subject property, being an operating hotel, should be valued as nothing but an operating hotel and that the Income Approach is the most appropriate methodology to be employed in deriving an estimate for assessment purposes. Accordingly the Complainant submitted a value estimate derived through their application of the Income Approach. In application of their Income Approach the Complainant utilized inputs pertaining to expense ratio, furniture fixtures and equipment (FF & E) allowances, intangibles allowance and capitalization rate consistent with those used by the Assessor in determining the assessed values of other operating hotels within the municipality. Specifically, the Complainant referred to the income approach data utilized, by the Assessor, to determine the assessed value of the Nomad Inn (another portion of the subject hotel), the Franklin Hotel & Suites, the Vantage Inn & Suites and the Merit Hotel, all of which are located within the municipality. In order to estimate the stabilized revenue for the property, the Complainant relied upon a weighting of 60% of the 2009 revenue, 20% of the 2008 revenue and 20% of the 1st quarter of the 2010 revenue, explaining, in some detail, why the income levels prior to 2009 are not appropriate due to the significant economic downturn of late 2008. Having applied their Income Approach, the Complainant derived a value estimate of $4,596,848 for the 27 units which equates to a per suite value of $170,254.

The Respondent did not utilize the Income Approach to derive the assessed value for the subject property, but rather relied upon the Direct Comparison Approach using residential condominium sales to provide a value indication. The CARB finds this somewhat confusing as in an earlier Jurisdiction Hearing (CARB Order 002/2010-P) that related to this same property the Presiding Officer wrote, as shown on page 34 of the Complainant's Exhibit C-1, "*The CARB solicited information from Mr. Henk Van Waas, Regional Assessor for the municipality. Mr. Van Waas advised that the assessments for roll 220721 (file 10-079) were prepared using the capitalized income approach as it was a commercial property and the assessment would be defended at hearing by comparison to other hotel properties. Despite its condominium status, the subject operates as a suite-hotel, offering long and short term accommodations.*" This statement is in complete agreement with the position of the Complainant and is completely opposite to what the Respondent now submits to defend their estimated assessed value(s) for the subject property. The Respondent cited what is commonly referred to as the *Rowbotham Decision* (2001 ABQB 371) to support their reason for relying upon the Direct Comparison Approach, using residential condominium sales, to value the subject property. The Respondent's brief consisted of little more than 15 pages of photocopies of Multiple Listing Service (MLS) sheets each of which pertained to the sale of an individual residential condominium unit. All of the sales are from the local market place and all were recorded in 2009. The units were said to be of comparable size to those of the subject property. The Respondent did not provide any analysis of these sales for the CARB to consider. No adjustments of any type appear to have been made and there was no explanation as to how these sales were deemed comparable to the subject property other than the unit size. The CARB found the Respondent's brief to be of very limited value in deciding the matter of the correct assessed values for the subject units.

In making a determination in this matter the CARB first refers to the *Municipal Government Act* Revised Statutes of Alberta 2000 c. M-26 (MGA) Section 290.1(1) which states:

"*Each unit and the share in the common property that is assigned to the unit must be assessed*
(a) in the case of a bare land condominium, as if it is a parcel of land, or
(b) in any other case, as if it is a parcel of land and the improvements to it."

The CARB notes that this Section of the MGA uses the words ***each unit*** and ***must*** (emphasis added) so as to leave no doubt.

It was acknowledged by the Respondent that there have been no sales of individual, hotel condominium units within the local market place that could be used for the purposes of deriving an estimate as to the assessed values for the subject units. The Complainant added that there have been no such sales that they are aware of in any of the other jurisdictions in which they are active.

It is clear to the CARB that the subject property is an operating hotel which provides accommodations for a fee to the travelling public on a nightly or beyond basis. The property is located within the central core area of Fort McMurray close to a casino, hardly a typical residential neighbourhood. An operating hotel is, in the judgment of the CARB, a non-residential class of property and its value cannot reasonably be derived from the sales of residential condominiums any more so than the value of an office or industrial property that happens to be a condominium can be related to such sales. It is the judgment of this Board that the most reasonable method for estimating the value of the subject property would be found through the application of the Income Approach, applied to the property as a whole and then dividing same by the number of units to produce an estimated value per unit. Does such a method defy the *Rowbotham Decision*, we think not as the circumstances are entirely different. The *Rowbotham Decision* related to two properties competing in the same market for the same tenant; however, this is clearly not the case before us. Additionally, the CARB gives consideration to the Issue of Equity and the fact that competing hotels, within the municipality are valued for assessment purposes using the Income Approach. In addition to the foregoing, the CARB notes, as shown on page 36 of the Complainant's Exhibit C-1, the 138 room component of the subject Nomad Inn has been valued for assessment purposes for the 2010 tax year, on the basis of the Income Approach. That assessed value is $19,928,680 which equates to approximately $144,411/room. The CARB fails to understand the rationale for valuing one portion of an operating hotel with one approach to value and then valuing another portion of that same property on a completely different basis. Indeed this rationale appears to differ from that of the Regional Assessor for the Regional Municipality of Wood Buffalo.

Having determined that the Income Approach is the more reasonable method of valuing the subject property, the CARB concentrated on the analysis prepared by the Complainant. The single variation that the Complainant applied to their analysis is the basis for the revenue estimate. In order to estimate the stabilized revenue per available room (RevPar) for the property, the Complainant used data from the 2008, 2009 and first quarter of 2010 revenues, weighted 20%, 60% and 20% respectively and as shown on page 55 of their Exhibit C-1. The CARB also notes that there appears to be a discrepancy between the information shown on page 55 of Exhibit C-1 as opposed to page 40 of the same Exhibit as the RevPar applied on page 40 does not relate to the information on page 55. The CARB does not agree that the 1st quarter of 2010 should be given consideration recognizing the valuation date of July 1, 2009. It would not be reasonable to think that the Assessor would have access to such information at the time the assessment was prepared. Similarly, the Assessor would not have access to the 2009 Year End financials for the property either. As has been noted, the Complainant contends that the economic performance of the subject property suffered in 2009 as a result of the economic slowdown which began in late 2008 and it is reasonable to assume that the Assessor would have been aware of this economic slowdown, and the impact it was having locally. This impact would be reflected in the economic performance of the subject property for the first six months of 2009 and that is information which could have been available to the Assessor. Using the information from the first half of the year could establish a trend for the remaining six months thus producing an estimate for the year's performance. Utilizing the information from page 55 of Exhibit C-1, the CARB derived a RevPar estimate of $178.60 by using only the information pertaining to 2008 and 2009 and, using the weighting parameters applied by the Complainant as a guide, that a weighting of 80% and 20% respectively is reasonable. Utilizing this RevPar of $178.60 and following the procedure outlined on page 40 of the Complainant's Exhibit C-1, wherein the inputs for expense ratio, FF & E and intangibles allowances and the applied capitalization rate are consistent with those applied by the Assessor for other hotels within the municipality, results in a value estimate for assessment purposes as follows:

Revenue	$ 1,760,103.
Less Expenses @40%	704,041.
Net Operating Income	1,056,062.
Less FF & E @ 15%	158,409.
Intangibles @ 1.5%	15,841.
Assess. NOI	$ 881,812.
Capitalized @ 14.5%	**$ 6,081,462.**

The CARB recognizes that there may be some different sized units in the subject property and that dividing the above given number by the total of 27 units may result in some minor inequities; however, the sizes of all of the various units was not provided by either party and, given that all of the subject units are held under one common ownership, it is the judgment of the CARB that it is, in this case, appropriate to have the assessment of each unit be 1/27 of the capitalized value.

PART D: FINAL DECISION

The assessments are reduced as follows:

Unit No.	Roll Number	2010 Assessed Value	Revised Assessed Value
1	220721	$403,840	$225,230
2	220721	$404,020	$225,230
3	220721	$380,410	$225,230
4	220721	$404,020	$225,230
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25	220721	$403,840	$225,230
26	220721	$394,520	$225,230
27	220721	$394,520	$225,230

It is so ordered.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this 12th day of October 2010.

C. J. Griffin, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

NO.	ITEM
1.	Exhibit C1 – Evidence of Complainant
2.	Exhibit R2– Assessment Brief of the Respondent