

**CALGARY
COMPOSITE ASSESSMENT REVIEW BOARD (CARB)
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(4).

between:

Tai Huu Nguyen, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

P. Irwin, PRESIDING OFFICER

J. Massey, MEMBER

R. Roy, MEMBER

A hearing was convened on November 3rd, 2010 in Boardroom 10 at the office of the Calgary Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta in respect of the Property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	034051409
LOCATION ADDRESS:	3507 Centre St NW
HEARING NUMBER:	55940
ASSESSMENT:	\$455,500

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 940 square foot (sf) house located on a 5,997 sf lot located in the Highland Park Community in the north-western quadrant of Calgary. As the property is partly commercial and partly residential, it has been assessed on a "house conversion" basis.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

There were no objections to the composition of the Board, nor were there any jurisdictional matters.

The Respondent indicated that there was a preliminary matter: namely, that the City had a recommendation of a revised assessment of \$370,000 on the subject property. As this was not acceptable to the Complainant, the hearing proceeded.

PART C: MATTERS/ ISSUES

Is the subject property assessed too high?

The Complainant advised the Board that the subject property was an older house, having been built in 1949, and it had 940 sf of space above grade, used for commercial purposes, and 550 sf below grade, used for residential purposes. The upstairs space had been used for an Electronics Repair business for a number of years but that business was closed two years ago and the premises are now occupied by a Massage Therapist. The Complainant had been living downstairs but has since rented that out to someone else. He had a concern that the City is using the wrong measurements in its calculations of square footages for the building. The Assessment Summary Report shows: a living area above grade of 135 sf; a living area below grade of 940 sf; and non-living area above grade of 805 sf. He would like the Assessors to correct the errors in their records.

The Complainant provided a 2010 Single Family Residential Property Assessment Neighbourhood Map which showed that the house on his north side had an assessment of \$309,000 and on his south side, the corner grocery store, with some residential use in back, had an assessment of \$170,000. His requested assessment is \$300,000.

The Respondent provided a photo and an aerial map of the subject property. He stated that house conversions are happening in the neighbourhood. The Respondent's disclosure package showed an assessment that was based on \$76 per sf for non-residential vacant land. A spreadsheet, at page 12, was in the package showing eight equity comparables of neighbouring residence house conversions, with assessments ranging from \$339,000 to \$376,500. They had no "traffic adjustment". Another spreadsheet, at page 19, showed seven equity comparables "with traffic" and assessments ranging from \$282,000 to \$337,500. The Respondent indicated that traffic could be a negative influence in a residential area and a positive influence in a business area. The Respondent's disclosure package also included two sales comparables from the Highland Park Community, both of which were residences. The adjusted sale price for the house at 320 34 Av NE (990 sf) was ~\$393K and the adjusted sale price for the larger house at 216 43 Av NW (1040 sf) on a much larger lot was ~\$347K.

The Respondent's comment sheet stated that "For roll year 2010, house conversions in the NW part of the City were assessed as land value only, highest and best use." Further: "Because of problems with consistency of application of the land only value, the values were changed back to those derived through the residential model building process." And: "Those accounts under complaint were not amended prior to the hearing." It concluded with: "The City of Calgary suggests that a value of \$370,000 is equitable with the value of other comparable residential properties in the area." With respect to the comparable to the north, he noted that it was inferior to the subject and therefore warranted a lower assessment. With respect to the comparable to the south, it had been assessed on an income basis which is why it had a significantly lower valuation. With respect to the subject

and the possibility of it being assessed on an income approach, the Respondent didn't know if an Assessment Request for Information (ARFI) existed, and therefore the City didn't have enough information to do an income approach.

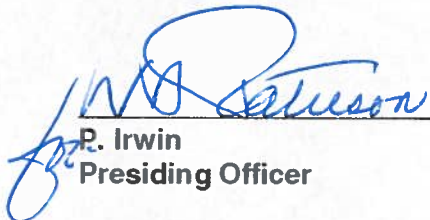
Board's Findings and Reasons in Respect of Each Matter or Issue:

Based on the evidence presented by both the Complainant and the Respondent, the Board finds that the assessment on the subject property is indeed too high, and that finding was corroborated by the initial recommendation. In a search for a fair and equitable assessment, the Board then narrowed down the data that had been presented. The grocery store south of the subject was not a good comparable because it had never been a residence. The Board noted that the subject had a "traffic main" influence. The sales comparables were accorded less weight because they were without traffic influence and one of them was larger and on a much larger lot. The Respondent's equity comparables without traffic adjustment were given less weight than those with the adjustment. The Board found that the properties that were most comparable to the subject (similar size, basement finish and nearby location and traffic adjustment) were at 4012 Centre St NE and 208 40 Av NW, with 2010 assessments of \$307,500 and \$337,500 respectively. The average of these is \$322,500 and with a small upward adjustment for the subject's renovation code, the Board finds the correct assessment to be \$325,000.

PART D: FINAL DECISION(S)

The 2010 assessment on the subject property is reduced, to \$325,000.

DATED AT THE CITY OF CALGARY THIS 12th DAY OF November 2010.


P. Irwin
Presiding Officer

APPENDIX "A" : ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

Tai Huu Nguyen	on his own behalf
Jason Lepine	Assessor, City of Calgary

APPENDIX "B" : DOCUMENTS RECEIVED BY THE ASSESSMENT REVIEW BOARD

Document C – 1	Complaint Brief (considered)
Document R – 1	Respondent's Brief (considered)

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.*