

**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(4).

**between:**

***Assessment Advisory Group, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Board Chair, J. Zezulka  
Board Member 1, H. Ang  
Board Member 2, R. Roy***

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

**ROLL NUMBER: 081066508**

**LOCATION ADDRESS: 1520-26 Avenue SW. Calgary, Alberta**

**HEARING NUMBER: 58396**

**ASSESSMENT: \$5,630,000**

This complaint was heard on 22day of November, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *P. Ohlinger*

**Property Description:**

The property is a 44 unit, four storey apartment, constructed in 1972.

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

Not Applicable

**Issues:**

The assessment does not properly reflect market value because the vacancy rate used in the preparation of the assessment is too low.

**Complainant's Requested Value:** \$5,275,000

**The Evidence:**

The Complainant held that the assessment was too high because the vacancy rate used in the City's income capitalization calculations was too low. The Complainant held that an 11.00 per cent vacancy should have been used, compared to the 5.00 per cent used by the City. The other inputs used by the Complainant in the Income calculations were common to the Respondent. In support of his position, the Complainant submitted a one month hand written rent roll that showed four vacant units, or a vacancy rate of 9.1 per cent. In addition, the Complainant drew the Board's attention to the CMHC Rental Market Report released in the fall of 2009. This report showed the October, 2009 overall apartment vacancy for the Southwest district to be 3.2 per cent. This appears in direct contradiction to the Complainant's own request.

The Respondent presented no evidence to support the assessment, or to disprove the Complainant's evidence. Rather, the Respondent took the position that the Complainant simply did not meet the burden of proof.

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

The hand written one month rent roll submitted by the complainant is the only evidence before this Board. Virtually all apartment projects in the City maintain a rent roll, or financial statements showing an annual vacancy rate of some sort that should have been available to the Complainant for submission to the Board. No ARFI responses for the subject were available. No doubt, applying vacancy rates stratified by location, and type of building would be more reliable than generalized

CMHC reports. However, no market derived vacancy statistics were submitted by either party. And the CMHC statistics submitted contradicted the Complainant's evidence.

**Board's Decision:**

The onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide convincing evidence to justify a change in the assessment.

In *Manyluk v. Calgary (City)*, MGB Board Order 036/03, it states;

"Every opportunity is provided to both [parties to present evidence and arguments in support of their positions. The ultimate burden of proof or onus rests on the appellant, at an assessment appeal, to convince the MGB their arguments, facts and evidence are more credible than that of the Respondent."

In *Kneehill (County) v. Alberta (Municipal Affairs, Linear Assessor)* (2004) Board Order MGB 001/04

"It is up to the parties who file a complaint on an assessment to put sufficient energy into proving that their allegations are well founded. In other words, the onus is upon the complaining party to provide sufficient evidence in order to prove their case."

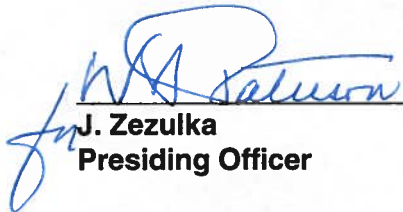
Finally, in *Shirley-Anne Ruben et al v. City of Calgary* MGB 239/00 at page 15

"Furthermore, just as the onus is on the Appellants to provide prima fascia proof that any particular assessment may be incorrect or inequitable, the Appellants have the initial burden of proving that the Respondent erred in the methodology adopted or implemented in connection with the assessments."

While the Board does not question the veracity of the Complainant, it is the opinion of this Board that a hand written document with no verification simply does not constitute convincing evidence. In the Board's opinion, the Complainant did not submit sufficient evidence to show that the assessed value is incorrect or that the assessment is prepared incorrectly.

The assessment is confirmed at \$5,630,000.

**DATED AT THE CITY OF CALGARY THIS 6 DAY OF December , 2010.**

  
J. Zezulka  
Presiding Officer

**List of Exhibits**

C-1; Evidence submission of the Complainant

R-1; City of Calgary Assessment Brief

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*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.*