

**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:**

***Rickard Realty Advisors Inc. COMPLAINANT***

**and**

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

**before:**

***T. Hudson, PRESIDING OFFICER***

***C. McEwen, MEMBER***

***E. Reuther, MEMBER***

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

**See attached Schedules:**

**ROLL NUMBER:**

**LOCATION ADDRESS:**

**HEARING NUMBER:**

**ASSESSMENT:**

**SCHEDULE A: Market Income Multi-Family Apartments**

**SCHEDULE B: "Seniors Residence" Multi-Family Apartments**

## Schedule "A"

Roll Number	Address	File Number	Assessment
*127000867	11611 OAKFIELD DR SW	57966	\$ 15,798,00.00
067158303	1328 15 AV SW	57941	\$ 2,750,000.00
067196097	1122 16 AV SW	57943	\$ 7,310,000.00
068206606	309 15 AV SW	57945	\$ 10,730,000.00
067169706	815 14 AV SW	57942	\$ 10,810,000.00
080058209	606 23 AV SW	57953	\$ 4,930,000.00
081030090	2404 16A ST SW	57955	\$ 3,940,000.00
200129013	7107 ELBOW DR SW	57967	\$ 6,630,000.00
043008408	2020 URQUHART RD NW	57932	\$ 6,930,000.00
057109407	303 3 AV NE	57938	\$ 1,960,000.00
057235806	1404 1 ST NW	57940	\$ 1,710,000.00
*080028400	1804 13 ST SW	57951	\$ 1,119,000.00
083195602	35 GLENGROVE CL SW	57961	\$ 17,560,000.00
102091006	530 57 AV SW	57963	\$ 13,850,000.00
082148404	2221 28 ST SW	57959	\$ 1,570,000.00
068022003	115 2 AV SW	57944	\$ 21,980,000.00
080011703	1015 CAMERON AV SW	57948	\$ 3,940,000.00
080107006	510 21 AV SW	57954	\$ 9,130,000.00
068013853	128 2 AV SW	55961	\$ 10,740,000.00

\* Amended

## Schedule "B"

Roll	Address	File Number	Assessment
018005306	11 VARSITY ESTATE VW NW	57956	\$ 10,680,000.00
020036000	1540 NORTHMOUNT DR NW	57968	\$ 7,260,000.00
022162507	4811 NIVEN RD NW	57969	\$ 4,650,000.00
034193102	400 40 AV NW	57971	\$ 8,610,000.00
037181203	3118 34 AV NW	57975	\$ 2,650,000.00
039036801	3607 63 ST NW	57979	\$ 498,000.00
040188310	7735 BOWNESS RD NW	57983	\$ 2,910,000.00
042115816	2003 46 ST NW	57988	\$ 1,590,000.00
044048106	1633 20 AV NW	57994	\$ 531,500.00
045241502	1234 21 AV NW	58000	\$ 7,950,000.00
046027504	207 21 AV NE	58003	\$ 1,200,000.00
046059192	120 18 AV NE	58008	\$ 2,650,000.00
046193306	3211 EDMONTON TR NE	58007	\$ 4,640,000.00
046240297	255 17 AV NE	58025	\$ 3,990,000.00
047043708	704 16 AV NE	58027	\$ 8,150,000.00
051140317	3003 56 ST NE	58028	\$ 4,630,000.00

055162804	1720 14 AV NE	58029	\$ 3,840,000.00
057213308	828 4 ST NE	58080	\$ 891,000.00
059010397	2406 2 AV NW	58082	\$ 4,500,000.00
059012096	2403 2 AV NW	58085	\$ 2,870,000.00
059107797	1518 8 AV NW	58088	\$ 2,980,000.00
059196998	113 18A ST NW	58089	\$ 3,770,000.00
060112596	520 34 ST NW	58091	\$ 3,510,000.00
*065080905	34000 SPRUCE DR SW	58142	\$ 4,354,000.00
067166199	102815 AV SW	58158	\$ 11,590,000.00
067188508	1506 9 ST SW	58160	\$ 6,930,000.00
068013754	120 2 AV SW	58161	\$ 6,070,000.00
068020007	122 3 AV SE	58163	\$ 12,340,000.00
068021096	200 1 ST SW	58164	\$ 14,920,000.00
068071802	602 1 ST SE	58166	\$ 19,960,000.00
068100304	344 9 AV SE	57946	\$ 13,250,000.00
068135409	1220 2 ST SW	57947	\$ 10,430,000.00
068181106	124 15 AV SE	57949	\$ 14,430,000.00
068228915	808 5 ST SE	57952	\$ 31,110,000.00
068228923	807 6 ST SE	57957	\$ 12,280,000.00
069017606	906 17 AV SE	57958	\$ 1,240,000.00
069043008	1401 11 AV SE	57960	\$ 652,500.00
069063592	40 11A ST NE	57962	\$ 11,970,000.00
069101202	1320 8 AV SE	57964	\$ 1,260,000.00
069105013	1020 BOW/VALLEY DR NE	57965	\$ 2,130,000.00
078024205	923 19 AV SE	57970	\$ 572,500.00
080008899	1720 9A ST SW	57972	\$ 4,520,000.00
081010704	1620 19 AV SW	57973	\$ 4,950,000.00
081097404	1818 28 AV SW	57974	\$ 802,500.00
082003104	3250 28 ST SW	57976	\$ 2,780,000.00
082085796	1923 33 ST SW	57978	\$ 6,650,000.00
082171000	2637 25 ST SW	57980	\$ 3,000,000.00
082192709	2808 25 ST SW	57981	\$ 3,450,000.00
086090909	4500 47 ST SW	57982	\$ 2,230,000.00
087018115	3712 37 ST SW	57984	\$ 3,340,000.00
087037008	3600 SARCEE RD SW	57987	\$ 7,580,000.00
087037404	240 LINCOLN WY SW	57989	\$ 8,850,000.00
099039117	2012 66 AV SE	57990	\$ 4,350,000.00
101043800	5320 4 ST SW	57993	\$ 5,050,000.00
102088002	602 57 AV SW	57996	\$ 4,590,000.00
103064903	2040 54 AV SW	57999	\$ 2,560,000.00
111179701	1111 68 AV SW	58001	\$ 5,150,000.00
123119711	8847 FAIRMOUNT DR SE	58002	\$ 3,190,000.00
123189805	240 92 AV SE	58004	\$ 9,390,000.00
129179321	10660 ELBOW DR SW	58005	\$ 4,160,000.00

\* Amended

These complaints were heard on November 15 to November 18, 2010, inclusive, at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *Mr. S. Rickard, Mr. N. Laird, Agents, and Mr.G.J. Ludwig, Legal Counsel, Wilson Laycraft.*

Appeared on behalf of the Respondent:

- Mr. S. Powell and Mr. M. Ryan, Assessors, and Ms. S. Tyrlinski, Legal Counsel, City of Calgary Law Department.

**Background:** Merit hearings with respect to assessment complaints affecting sixty(60) multi-family properties(ie SCHEDULE B), characterized as “seniors residences” began on October 25, 2010. However, at that time, the Complainant advised, and the Respondent concurred, that this portfolio of properties are subject to an agreement between the parties, which comprises a reduction allowance of eighteen(18%) from typical market value, due to atypical factors, such as suite size and mix, configuration and layout, and land use restrictions, among others. The Complainant advised further, that the same parties were scheduled to begin merit hearings with respect to assessment complaints affecting the list of nineteen(19) typical market income multi-family properties(ie SCHEDULE A), on November 15, 2010. Given the link between these two sets of hearings, the Board decided, with the concurrence of the parties, that the most efficient manner to proceed, would be to postpone the October 25 hearing of the “senior residence” assessment complaints, to a date following completion of the market income multi-family property assessment complaint hearings, scheduled to begin on November 15, 2010. It was also agreed, that the same panel of the Board would hear both sets of complaints. As a result of the postponement decision, the merit hearing with respect to the typical market income properties assessment complaints began on November 15 and was concluded on November 17, 2010. The “seniors residence” assessment complaints hearing followed, and was concluded, on November 18, 2010. This decision is inclusive of both hearings.

**Property Description:** All of the properties under assessment complaint are either low-rise or high-rise multi-family income properties, each with a minimum of eight(8) units. The current assessments are prepared using the gross income multiplier(G.I.M.) methodology. High rise properties have a consistent G.I.M. factor of thirteen(13.00) applied to gross income to calculate the assessment. The G.I.M. factor for low-rise properties range from a low of eleven(11.00), to a high of fifteen point five(15.50). The Complainant is requesting that the G.I.M factor for high-rise properties be reduced by approximately ten percent(10%), to a consistent eleven point seven-five (11.75); and that the G.I.M. range for low rise properties be modified from a low of eleven(11.00), to a high of thirteen point five(13.50). The properties considered “seniors residences” have had their current assessments discounted by eighteen percent(18%), by agreement of the parties, and for the reasons outlined earlier in this decision. If the modified G.I.M. factors requested by the Complainant are adopted, the current assessments of the “senior residences” would, as a result, receive an additional reduction.

**Preliminary Matters:** The Respondent advised that the assessments of three(3) of the properties under complaint have been amended to correct factual errors as follows:

1. Roll number 065080905, located at 3400 Spruce Drive SW, original assessment **\$5,140,000**, amended to **\$4,354,000**. - See Schedule "B"
2. Roll number 127000867, located at 11611 Oakfield DR SW, original assessment **\$18,470,000**, amended to **\$15,798,000**. - See Schedule "A"
3. Roll number 080028400, located at 1804 13 ST SW, original assessment **\$1,260,000**, amended to **\$1,119,000**. - See Schedule "A"

These amendments were acknowledged by the Complainant. However, the Complainant advised that, in their view, the amended assessment for each of these properties still exceed market value, and therefore remain under complaint.

**Issues:** All of the complaint forms filed by the Complainant under Section 460(5) of the Municipal Government Act(MGA), for each of the properties, indicate that the matters that apply to the complaints include items (a) through (g) inclusive in the MGA, items which correspond to items #1 through #7 on the complaint form. All of the complaint forms also indicate in the affirmative, that the information requested by the Complainant from the municipality pursuant to Section 299 or 300 of the MGA was provided. However, there was considerable dispute between the parties with respect to information that the Complainant requested and the Municipality declined to provide. In particular, the Complainant advised that they had requested any "studies" with respect to time adjustment ratios and or G.I.M. factors and supporting sales data, that the Municipality had used in preparing the 2010 assessments for the subject properties. In any event, the Complainant advised that they were aware of, but did not pursue a Compliance Review which is described in Section 27.6(1-4) of the Matters Relating to Assessment and Taxation Regulation(M.R.A.T.). **The Board lacks the jurisdiction to remedy disputes over compliance with MGA Sections 299 and 300, matters which the legislation and attendant regulations indicate should be resolved before complaints are filed.**

**Notwithstanding all of the matters noted on the complaint forms, it became clear early in the hearing process that the issue(s) in dispute between the parties is the current assessment amount for each of the subject properties. In particular, whether the G.I.M. factors applied to income, result in current assessments that are a reasonable estimate of the market value of the subject properties. In fact, the presentation of the Complainant states, reference page 6 of 391 Exhibit1C under section 3.1, quote "gross rents, suite counts, vacancies, and any other components of assessment should remain as they are in the original assessment, and are not under dispute, unless explicitly noted under section 4" endquote.**

The Complainant further advised that the issue(s) are common to the nineteen(19) market income multi-family subject properties under complaint, and therefore only one presentation and rebuttal to the Respondent presentation, will be offered in support of the requested reductions in the assessments.

#### **Respondent Request for Dismissal of the Assessment Complaints**

Immediately following the presentation and direct examination of the Complainant's submission, and prior to any submission in defence of the current assessments, the Respondent requested

that the Board dismiss the subject property assessment complaints. The Respondent argued that the Complainant's presentation failed to meet the prima facie threshold implied by the standard of proof and onus of the parties, and therefore the complaints should be dismissed.

**Board Findings on the Respondent Request for Dismissal of the Complaints:**

The Complainant's request for an average nine point two-five( 9.25%) percent reduction in the G.I.M. factor for high rise multi-family apartments, and an average ten point zero three(10.03%) percent reduction in the G.I.M. factor for low rise apartments for 2010, is based on MGB Decision DL 043/10. This decision pertains to an assessment appeal for some twenty-six (26) multi-family properties(including some, but not all, of the same subject properties to the 2010 complaint), for the July 1, 2007 valuation date. In fact, the Complainant states the following on Page 4 of 391, Exhibit 1C, Section 2 " In effect the goal of this appeal is to simply roll this decision(ie MGB DL 043/10), forward into 2010, as was done in 2009".

**In the view of the Board, MGB Decision DL 043/10, does not constitute evidence that can be "rolled forward", and applied to assessments prepared for the July 1, 2009 valuation date. To do so, assumes that nothing has changed since July 1, 2007. In fact, the Board does not consider MGB DL 043/10 to be evidence at all, with respect to the 2010 assessments of the subject properties. What MGB DL 043/10 does provide, is guidance to both the Respondent and Complainant with regard to preparing and/or challenging multi-family apartment property assessments. The Board can find no evidence that the Complainant used that guidance for any purpose, other than to speculate that the Respondent did not. As a result, the Board finds that the Complainant has failed to meet even the prima facie threshold of onus to prove, based on a balance of probabilities, that the current assessments of the subject properties are in excess of a reasonable estimate of market value.**

**Board Decision on the Respondent Request for Dismissal of the Complaints:** The complaints and requests for revised assessments are dismissed.

**Board Decision on the Assessments of the Subject Properties:** The current and amended assessments per the attached SCHEDULE A, are confirmed. The parties have acknowledged that the current and amended assessments per the attached SCHEDULE B reflect the eighteen(18%) percent discount from market value to be applied to the assessments of multi-family apartments classified as "seniors residence". Therefore the current and amended assessments per SCHEDULE B are also confirmed.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF DECEMBER 2010.



T. Hudson  
Presiding Officer

*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.*