

**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:

SV Property Ltd.as represented by AltusGroup), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, J. Massey
Board Member, K. Farn***

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 2012 Assessment Roll as follows:

ROLL NUMBER: 201386745

LOCATION ADDRESS: 100, 1410 – 1 Street SE

HEARING NUMBER: 66647

ASSESSMENT: 11,020,000.00

This complaint was heard on the 18 day of June, 2012, at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Two.

Appeared on behalf of the Complainant:

- D. Genereux

Appeared on behalf of the Respondent:

- M. Ryan

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

(1) At the outset of the hearing, the Complainant objected to the inclusion of certain documents contained in the Respondent's submission, specifically pages 25 to 48, of Exhibit R-1, being the Respondent's Assessment Brief, on the grounds that the information had not been disclosed in accordance with sections 299 and 300 of the Municipal Government Act.

(2) According to the Complainant, the information in question was originally requested on March 13, 2012, and was received by the Complainant on June 4, or 14 days prior to the June 18 hearing date.

(3) Section 8(2)(b) of the Matters Relating to Assessment Complaints Regulation, states, among other things;

"the respondent must, at least 14 days before the hearing date,

(1) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing...."

(4) Arguably, the information in question was received during the 14th day prior to the hearing. In any event, in the opinion of the Board, the complainant received the information in ample time to formulate any counter argument or rebuttal that he considered necessary.

(5) The information was allowed and the Board proceeded to the merit hearing.

Property Description:

(6) The subject is a condominium unit, occupied by a Shoppers Drug Mart, and a bank that occupies a portion of the main floor of a high rise residential structure known as the Sasso Building. The building is new, and is assessed as a class "AA" building. The area of the subject is 23,709 s.f. The Shoppers Drug Mart is 18,103 s.f. and the bank is 5,606 s.f. The site area is 55,759 s.f.

Issues / Appeal Objectives

(7) The property is currently being assessed using the income approach. The Complainant does not dispute the valuation method.

(8) The primary issue in the complaint is the quantum of rent applied to the drug store. According to the Complainant, the rent applied by the City is excessive, resulting in an assessment that is too high relative to the market value, and is inequitable with similar facilities. The rent currently being applied for the purposes of assessment is \$35.00 per s.f.. The complainant argues that a more appropriate rent would be \$21.50 per s.f. based on typical rents, or \$29.50 per s.f., being the actual rent.

(9) There is no dispute about the rent applied to the bank space.

Complainant's Requested Value: \$7,790,000

Evidence / Argument

(10) In support of the equity argument, the Complainant submitted seven comparable condominium unit assessments. All of the comparables are occupied by Shoppers Drug Mart stores. Of the seven comparables, two are condominium units, one is a freestanding building, and four are condominium units in office and retail buildings. Assessments range from \$200 to \$374 per s.f. The subject's assessment calculates to \$465 per s.f. The median size of the comparables is 16,232 s.f., which is 32 per cent smaller than the subject. In addition, the subject assessment includes 5,606 s.f. of bank space, which is typically higher than conventional retail space.

(11) The Complainant submitted four rent comparables, all of which are Shoppers Drug Mart stores. Rents range from \$17.00 per s.f., to a high of \$38.00 per s.f., with a median of \$21.50. Two are units in larger buildings, and two are freestanding premises. Floor areas varied from 8,275 to 18,731 s.f.

(12) Finally, the Complainant submitted a copy of a portion of the Master Rent Roll for the Sasso Building. This document showed that the actual rent for the subject was \$29.50 per s.f. The rent roll did not show any step up provisions during the term of the lease. The lease is slated to expire on February 29, 2024.

(13) The material that was the subject of the preliminary matter in this hearing, and submitted by the Respondent, included the Letter of Transmittal from a May, 2011 appraisal report, showing the value of the leased fee interest in the subject property, effective June 1, 2011, to be \$12,800,000.00. In addition, the documentation showed that the subject premises transferred in an arms length transaction in June, 2011, for \$12,800,000.00. That amount, as amply pointed out by the Respondent, is 16 per cent higher than the current assessment.

(14) The Assessment Request for Information Form (ARFI) submitted by the Respondent shows the current lease of the subject, with an initial rent of \$29.50 per s.f., the same amount as submitted by the Complainant. However, the ARFI also shows step up provisions whereby the rent increases in increments during the life of the lease. The current rent level in effect is shown at \$31.00 per s.f.

(15) As far as the Complainant's equity comparables are concerned, the Respondent maintained that they are essentially invalid, since the subject is not a condominium, but is in fact a strata titled unit. According to the Respondents evidence, the City of Calgary assesses condominium units via the income approach, whereas condominium units are assessed by

sales comparison.

Board's Decision

(16) This Board recognizes that there might be some legal distinction between condominium units and strata titled properties. However, from a market perspective, it is unlikely that the majority of the public is even aware that any distinction exists, much less considers value in a different manner for any acquisition decision. For that reason, the Board does not accept the Respondent's argument that the two classes of property should be valued by different approaches. The Board finds that the Complainant's equity comparables have probative value in assisting the Board in assessing the equity of the current drug store assessment relative to other premises.

(17) The material submitted by the Respondent relative to the appraisal and sale of the subject in 2011 is of interest. However, the subject premises is occupied by two tenants, only one of which is in dispute. There is no evidence to how much consideration, if any, was attributed to the bank space, or if there were any extraneous influences affecting the purchase price.

(18) There is a significant range of rents indicated for a property such as the subject. Neither party could offer convincing evidence that would lead this Board to a particular conclusion. At the same time, the ARFI submitted by the Respondent shows the current rent level of the subject to be \$31.00 per s.f. That rent level is an indisputable fact, and is, in the opinion of the Board, the most compelling evidence available. Adopting that rent, and using the same inputs used by both parties to the hearing, a revised assessment of \$10,076,622.00 is calculated. That total calculates to \$425 per s.f. including the bank space.

(19) The revised assessment is truncated to 10,070,000.00.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF July, 2012.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1.	C1 Evidence Submission of the Complainant
2.	C2 Rebuttal Submission of the Complainant

2. R1 Evidence Submission of the Respondent

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 MGB Administrative Use Only

Decision No. 0679/2012 - P			Roll No. 201386745	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Income / Equity	Rent	Assessed rent