

**COMPOSITE  
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 (MGA).

**between:**

***MV Property Ltd. (as represented by Altus Group Ltd.),*  
COMPLAINANT**

**and**

**The City Of Calgary,  
RESPONDENT**

**before:**

**C. J. Griffin, PRESIDING OFFICER  
B. Jerchel, MEMBER  
A. Wong, MEMBER**

This is a complaint to the Composite Assessment Review Board (CARB) 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: 028292407**

**LOCATION ADDRESS: 5455 Falsbridge Dr. NE**

**HEARING NUMBER: 66809**

**ASSESSMENT: \$2,330,000.**

This complaint was heard on 27<sup>th</sup> day of June, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- K. Fong

Appeared on behalf of the Respondent:

- D. Zhao

**Preliminary or Procedural Matters:**

[1] A Preliminary Matter was brought forward by the Complainant relating to their request for information, from the Assessor, under Sections 299 and 300 of the Municipal Government Act (MGA) and the ensuing response from the Assessor which the Complainant maintains did not meet the requirements of Section 299 of the MGA.

[2] This same Preliminary Matter was brought forward by the Complainant in an earlier CARB Hearing and it was agreed by both parties that the Decision of the CARB pertaining to same would be carried forward and become applicable to this Hearing as well. Accordingly the CARB refers the reader to CARB Decision #0776-2012-P which provides more detail as to the decision of the CARB to allow the Assessor to submit their assessment brief in its totality.

**Property Description:**

[3] According to the *Property Assessment Summary Report* (Exhibit C-1 pg. 14), the subject property is categorized as being a CM0201 – Retail – Freestanding with an **A-** quality rating. The property consists of one (1) structural component that is 5,715 Sq. Ft. in size. The Year of Construction (YOC) is recorded as 1991 and the underlying site is reported as being 0.89 acres in size.

[4] The property has been valued, for assessment purposes, through application of the Income Approach with the following inputs:

<b><u>Category</u></b>	<b><u>Rentable Area</u></b>	<b><u>Rental Rate</u></b>	<b><u>Typical Vacancy</u></b>
Retail Bank	5,715 Sq. Ft.	\$33.00/Sq. Ft.	5.00%
Vacant Space Shortfall	@ \$8.00/Sq. Ft.		
Non-Recoverable Allowance	@ 1.00%		
Capitalization Rate	@ 7.50%		

**Issues:**

[5] There are a number of interrelated issues outlined on the Assessment Review Board Complaint form; however, at the Hearing the Complainant reduced the issues to be considered by the CARB to:

1. The assessed rental rate for the retail restaurant space is too high and should be \$28.00/Sq. Ft.
2. The subject suffers from chronic vacancy and an allowance should be made to account for same.

**Complainant's Requested Value:** \$1,830,000. (Exhibit C1 pg. 24)

**Party Positions:****Complainant's Position**

[6] In support of their contention that the assessed rental rate is too high, the Complainant introduced (Exhibit C-1 pg.26) six (6) Fast Food Restaurant lease comparables as well as eight full Service Restaurant leases. According to their calculations, the former provide a Mean of \$30.58/Sq. Ft. and a Median of \$32.04/Sq. Ft. while the latter provide a Mean of \$24.53/Sq. Ft. and a Median of \$27.83/Sq. Ft. The lease start dates for these comparables range from September 2006 to April 2011 in the case of the former group and from November 1994 to October 2010 for the latter group of comparables. The Complainant explained to the CARB that

the subject property should be considered a full service restaurant in that it was designed as , and formerly operated as, a *Boston Pizza* which is a full service family restaurant. In consideration of this latter factor the Complainant suggests the latter grouping of Full Service Restaurant comparables should be given the most weight and these same comparables are supportive of their requested \$26/Sq. Ft. lease rate.

[7] In terms of the chronic vacancy issue, the Complainant acknowledged that the subject property was still subject to a lease in May of 2010 and it would therefore not qualify as having been chronically vacant. The Complainant explained this situation to the property owner; however, the owner insisted the issue be brought forth at the Hearing.

#### **Respondent's Position**

[8] Insofar as the disputed restaurant lease rate is concerned, the Assessor introduced (Exhibit R1 pg. 13) a copy of the *Assessment Request For Information* (ARFI) for the subject property, dated March 2010, showing the property was then leased at a rate of \$32.50/Sq. Ft. which the Assessor suggests is fully supportive of the assessed rate of \$33/Sq. Ft. Additionally, the Assessor introduced (Exhibit R-1 Pg. 16) a list of nineteen (19) lease comparables with lease start/commencement dates ranging from January 2009 to October 2011. It should be noted that this list contained two double entries which the Assessor removed from the list at the Hearing. The Assessor indicated that five (5) of these comparables are located in the northeast quadrant of the city, where the subject is located, and that these comparables indicate a Mean of \$33.28/Sq. Ft. and a Median of \$35/Sq. Ft. both of which fully support the assessed rate of \$33/Sq. Ft.

[9] In terms of the chronic vacancy issue, the Assessor suggested and as was acknowledged by the Complainant, that this is a non-issue as the property was still under lease in March 2010. Normally chronic vacancy applies to properties that have remained vacant for a period of not less than three (3) consecutive years.

#### **Board's Decision:**

[10] The assessment is **confirmed at \$2,330,000.**

#### **Decision Reasons:**

[11] Insofar as the disputed lease rate is concerned, the CARB is of the judgment that the evidence of the Respondent is significantly superior to that of the Complainant, especially in terms of lease dates. The CARB is also persuaded by the fact that the subject property was leased at a rate of \$32.50/Sq. Ft. in March of 2010. Based upon these factors the CARB has determined that the assessment is to be confirmed.

[12] In terms of the chronic vacancy issue the CARB agrees that this is a non-issue as the property was leased in March of 2010 and thus does not qualify as having suffered chronic vacancy.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF July 2012.

  
C. J. Griffin  
Presiding Officer

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. R1	Respondent's Disclosure

*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**

<b>Decision No.0781-2012-P</b>			<b>Roll No. 028292407</b>	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Freestanding Retail	Rental Rate	Typical Rate	Restaurant