

**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:**

***Antonin Kodet, COMPLAINANT***

**and**

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

**before:**

***L. Wood, PRESIDING OFFICER***

***R. Cochrane, MEMBER***

***E. Reuther, MEMBER***

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:

<b>ROLL NUMBER:</b>	<b>079003208</b>
<b>LOCATION ADDRESS:</b>	<b>224 18 AV SW</b>
<b>HEARING NUMBER:</b>	<b>66255</b>
<b>ASSESSMENT:</b>	<b>\$1,120,000</b>

This complaint was heard on 5 day of July, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- Dr. A. Kodet Property Owner

Appeared on behalf of the Respondent:

- Mr. H. Yau Assessor

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

[1] There were no procedural or jurisdictional matters raised by the parties during the hearing.

**Property Description:**

[2] The subject property is a 1,573 sq. ft. building located on a .11 acre site in Mission. The building was constructed in 1906 and has been assessed as a C quality rating. The land use designation is Commercial Corridor 2. The property has been assessed as a house conversion. A -15% adjustment has been applied to the assessment for a negative location factor.

**Issue:**

[3] The current assessment does not reflect the current value of the subject property based on market value and equity.

**Complainant's Requested Value:**

[4] The Complainant is seeking a reduction to \$735,000 for the subject property which was its assessed value in 2008.

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

**Complainant's Evidence:**

[5] The Complainant testified in regards to the negative societal influences that are directly impacting the value of his property (Exhibit C1 pages 1 – 7). The Complainant provided firsthand accounts of the significant criminal activities occurring in this immediate area (supported with photographs), which include people selling and using drugs, fighting, drinking, stealing etc. The Complainant also testified that a lot of displaced and homeless people are congregating outside of St. Mary's Hall, which is located south of his property. They exhibit aggression, threaten, and are prone to physical violence.

[6] There are also problems associated with the Republic Bar located north east of the subject property in which people are congregating, abusing drugs and alcohol, fighting,

vandalizing property etc. and these activities spill onto his property. It has become a real epidemic and one in which the police are actively involved. The Complainant submitted the house located west to his property used to be a crack house, (the new owners are actively trying to clean up the neighbourhood, as is the Complainant) and west of his property is a vacant land parcel in which the same activities as identified above are carried out.

[7] The Complainant submitted the subject property is over 100 years old (constructed in 1906) and there has not been any significant upgrades (Exhibit C1 page 4). Nor is there any special equipment or amenities in relation to his practice as a naturopathic doctor. Yet the property's assessment has been increasing exponentially over the last several years (Exhibit C1 page 6). The Complainant testified at the height of the market in 2008 he was offered \$550,000 for the subject property.

[8] The Complainant testified that the negative societal influences in this area directly impact his business (his clients are fearful of their personal safety) and his personal residence (he resides in the subject property and fears for his personal safety).

[9] The Complainant had contacted the Assessment Department earlier this year to inquire how his assessment was prepared and they provided him with three equity comparables (Exhibit C3 pages 13). The Complainant argued that these comparables were located in superior locations (two are located in the Beltline and one in Mount Royal Lower) and have different quality ratings than the subject property. There was also an issue identified in regards to the square footage of these properties as the areas reported by the assessor in an email to the Complainant did not coincide with the areas reported on the City's website.

[10] The Complainant provided an equity comparable of the adjacent property at 228 18 AV SW (Exhibit C3 page 4). It was built in the same year as the subject property (1906). It has a similar building size as the subject (1542 sq. ft.), same size lot (.11 acres), same zoning (Commercial Corridor 2) and it was assessed at \$409,500.

#### Respondent's Evidence:

[11] The Respondent submitted the 2012 Assessment Explanation Supplement for the subject property and indicated that the subject property received a -15% adjustment based on negative location factors (Exhibit R1 page 10).

[12] The Respondent argued that the subject property is a house conversion and the property located adjacent to the subject property is a residence, which resulted in the two different assessments.

#### Board Decision (Majority) (L. Wood & R. Cochrane):

[13] The Board finds the best evidence is the equity comparable located next to the subject property at 228 18 AV SW (Exhibit C3 page 4). It has the same year of construction, zoning, parcel size as the subject property and similar building size. During the hearing, the Respondent stated that if the sign advertising the Complainant's services did not exist outside of the subject property, it would have been assessed as a residential property. It appears that the sign was the determining factor in assessing this property as a house conversion. No inspection had

occurred of the premises. The Complainant resides in the subject property and does not have staff to assist in his practice which would suggest this is a home based business as opposed to a house conversion.

[14] The Board also notes very little evidence was put forward by the Respondent in support of the assessment (no sales and/or equity comparables).

[15] Based on equity, the Board finds the subject property's assessment should be \$409,500. The Board also placed weight on the Complainant's testimony, which it found credible, that he was offered \$550,000 for the subject property in 2008, at the height of the market.

Dissent with Reasons (E. Reuther):

[16] In regard to the above, I find I must dissent with the opinion of the majority to reduce the assessment.

[17] Although the Complainant, Mr. Kodet, provided good evidence to the Board to show the nature of the nuisance his property (and he) is subject to, he did not provide any sales evidence, Realtor's Comparative Market Analysis, or certified appraisal to the Board to be able to prove what comparables on the market would sell for. Without this evidence, I find that there was no base line for the Board to judge whether the 15% reduction applied to his property was or was not adequate to account for the external negative influences.

[18] Also, in respect to the percentage breakdown as to residential and non-residential use and valuation, the subject building is not like the residential property adjacent. The subject building has a business component and exhibits signage in the front yard (Exhibit R-1 page 6) and is assessed on the Sales Comparison Approach with other similar House Conversions. The adjacent property, as was noted by Mr. Kodet, is fully rented out to residential tenants; the resultant values would not be the same, as stated by the assessor, Mr. Yau. The comparison is dissimilar and the argument fails.

Board's Decision:

[19] The decision of the Board is to revise the 2012 assessment for the subject property from \$1,120,000 to \$409,500.

DATED AT THE CITY OF CALGARY THIS 10<sup>th</sup> DAY OF Aug 2012.



Lana J. Wood  
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. C2	Complainant Disclosure
3. C3	Property Assessment Summary Report
2. R1	Respondent 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 ADMINISTRATIVE USE**

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other Property Types			