

**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:

Murray C. McEwen
(as represented by Cushman & Wakefield Ltd.), 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:

ROLL NUMBER:	057200800
LOCATION ADDRESS:	101 10 AV NE
HEARING NUMBER:	65382
ASSESSMENT:	\$922,000

Appeared on behalf of the Complainant:

- Appeared on behalf of the Respondent:

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

[6] The Respondent argued that its disclosure was sent directly to the property owners via email, and there was no indication that the email was returned to sender (Exhibit R2 pages 1 & 2). The Respondent argued that at the time the disclosure was due, the Agent had not been properly authorized and therefore the only obligation on the Respondent was to provide a copy

of the disclosure to the property owners. The Respondent submitted the Agent should have taken steps to get that information from the property owner.

[7] The Respondent argued that the agency form for section 299 and 300 requests is a separate matter and that form clearly states the authorization does not extend to ARB hearings (Exhibit C1 page 2, para. 6). He argued that the Agent is aware of the separate filing requirement to act on behalf of the property owner in an ARB proceeding. The Respondent requested that the matter proceed and no time be allowed for the Complainant to review the Respondent's disclosure.

Board's Findings:

[8] The Board finds there was an obligation on the Agent to have obtained a copy of the Respondent's disclosure from the property owner. The evidence before the Board indicated the email containing the Respondent's disclosure had been sent to the property owner. At the time the Respondent's disclosure was due, the Agent had not completed and filed an ACAA form, which given the Agent's extensive experience before the Assessment Review Board, he would have known of that requirement (section 51 of MRAC). When the preliminary matter was determined, it was 4:40 pm and the Board decided to adjourn the merits of the case until Tuesday July 10. This would allow the Agent a brief opportunity to review the Respondent's disclosure. However, the Board advised the Agent that he would not be allowed to submit any rebuttal in regards to this matter.

[9] It is noted, during the merit hearing on July 10, 2012, the Agent had attempted to introduce rebuttal evidence, in the form of photographs, which the Board did not allow as it was considered new evidence. Moreover, in light of its previous ruling, the Board was clear in its direction that no rebuttal evidence would be permissible in this hearing.

[10] For the remainder of the Board order, the Agent will be referred to as the Complainant.

Property Description:

[11] The subject property is a low rise office building located in Crescent Heights. The assessable building area is 7,508 sq. ft. and is situated on 0.11 acres of land. The building was constructed in 1972 and was assessed with a B quality rating. The land is zoned Commercial Corridor 2.

[12] The property was assessed as an office building, comprised of Medical/Dental office space (3,754 sq. ft.), Office Space Below Grade (2,500 sq. ft.) and storage space (1,254 sq. ft.). The only issue in dispute is the assessed rate applied to the Office Space Below Grade. The Complainant was in agreement with the remaining income parameters used in the assessment.

Issues:

[13] The Complainant identified the issues for complaint as follows:

- (1) The property is incorrectly assessed based on an incorrect market value on an incorrect valuation of the basement space.
- (2) The assessment of the subject property is inequitable.

Complainant's Requested Value:

[14] The Complainant requested a revised assessment of \$770,000 for the subject property.

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

(1) The property is incorrectly assessed based on an incorrect market value on an incorrect valuation of the basement space.

[15] The Complainant submitted the subject property is an owner occupied, chiropractic clinic. The lower level, the Office Space Below Grade, (2,500 sq. ft.) was assessed at \$8.00 psf. The Complainant argued that the entire basement area should be assessed at \$3.00 psf which was applied to the storage area (1,254 sq. ft.) in the basement because this is not considered superior space, and is effectively all storage area.

[16] The Complainant submitted several photographs including those taken of the basement area in support of his argument that it is used for storage (Exhibit C2 pages 6 - 28). The photographs depict an old x-ray machine which the Complainant stated has been decommissioned, an office area, a lunchroom, and a waiting area. The finish is complete but it is an older vintage finish. There are no windows in the basement and no separate entrance.

[17] The Complainant submitted this property has a number of unique characteristics because of the small size of the lot, the building covers it completely. There is no parking which causes problems. The assessment currently does not capture those challenges.

[18] The Respondent submitted that he toured the subject property with the owner on June 1st. The Respondent submitted the Office Space Below Grade is completely finished and includes an x-ray machine that is still in use. The Respondent submitted that they assess all finished office space.

[19] The Respondent submitted there is pay parking at the front of the building and stated that this is not atypical for the area (Exhibit R3 page 5).

[20] The Board finds the Office Space Below Grade does capture a fully finished area, albeit the finish is dated. However the photographs submitted by the Complainant show this area is used in connection with the main floor office area including a waiting area for the public. As such, it is reasonable to conclude that a different assessed rate apply to the finished area as opposed to the storage area.

(2) The assessment of the subject property is inequitable.

[21] The Complainant submitted that based on his request of \$770,000 for the subject property, this would equate to an assessed building rate of \$155.62 psf and \$160.70 psf for an assessed land rate. He submitted 9 equity comparables of properties in Crescent Heights, that included automotive, retail, and retail mixed use properties, which were assessed between \$133.96 psf - \$299.95 psf for the buildings and \$60.84 - \$151.36 psf for the assessed land parcels (Exhibit C2 page 33). He argued these properties are superior to the subject property, particularly in site coverage ratios, yet they have lower land assessments than the subject

property.

[22] The Respondent argued that none of the Complainant's equity comparables were medical/dental offices, and three of them used a different valuation method (direct sales comparison approach) and therefore were not similar to the subject property. The Respondent submitted two equity comparables of medical offices in support of the assessed rates of \$15.00 psf for medical/dental office space and the \$8.00 psf rate applied to Office Space Below Grade (Exhibit R3 pages 20 - 22).

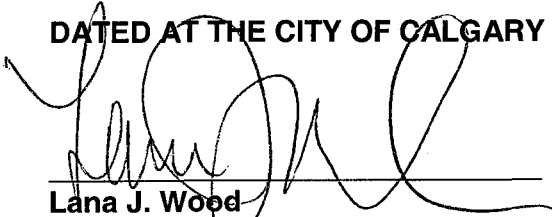
[23] The Board finds the equity comparables put forward by both parties inconclusive: the Complainant submitted nine properties that were not similar to the subject property as a medical/dental office (including three automotive properties) and the Respondent submitted two medical/dental offices that were superior in construction and location than the subject in support of the assessed rates. As such, the Board placed little weight on the parties' equity comparables.

[24] The Board finds, based on the totality of the evidence before it, it was insufficient to change the assessment for the subject property.

Board's Decision:

[25] The decision of the Board is to confirm the 2012 assessment for the subject property at \$922,000.

DATED AT THE CITY OF CALGARY THIS 1st DAY OF Aug 2012.



Lana J. Wood
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Evidence
2. C2	Complainant's Evidence
3. R1	Respondent's Evidence
4. R2	Respondent's Evidence
5. R3	Respondent's Evidence

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	Issue	Detail	Sub – Detail
CARB	Office	Low Rise	Income Approach	Net Market Rent/ Lease Rates; Equity Comparables