

**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

Mui Duc Nguyen and Xuan Ngoc Ly, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER

E. Reuther, MEMBER

R. Cochrane, 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: 075016402

LOCATION ADDRESS: 4413 17 Av SE

HEARING NUMBER: 66183

ASSESSMENT: \$493,000

This complaint was heard on July 6, 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:

- *Xuan Ngoc Ly, Mui Duc Nguyen*

Appeared on behalf of the Respondent:

- *Harry Yao, City of Calgary Assessor*

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

[1] The complaint form had been submitted with attached documentation. This was accepted as package C1, given that no additional disclosure had been provided.

Property Description:

[2] 4413 17 Av. SE is a House Conversion with 986 sq ft on the main floor and a basement level which the owners state is below ground. It was constructed in 1953 and currently houses a restaurant. It is located in Forest Lawn.

Issues:

[3] The assessed value is too high. Is the assessed value equitable based on the assessments of similar properties?

Complainant's Requested Value:

[4] \$380,500

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

Evidence and Arguments

[5] The Complainant, Ms. X. N. Ly, stated that their taxes have gone up 40%, reflecting an increase in the assessment. She presented the assessment summary reports of two neighbouring businesses.

[6] The neighbouring businesses are 1739 51 St. SE, an Auto Sales business with a 480 sq ft commercial building on 0.15 acres of land used to display vehicles; and 4401 17 Av SE, a Jewellery Shop in a 1962, 2063 sq ft (above grade) house conversion with 51% residential and 49% non-residential use. The Complainant argued that both of these businesses have lower taxes than the subject.

[7] The Respondent, Mr. H. Yau, pointed out that the Auto Sales business has a very small commercial building on the property. Because it is a commercial building it is valued on the Cost Approach (Land + 480 sq ft Building). This may give it a lower assessed value and a different tax rate than a House Conversion.

[8] Mr. Yau went on to say that although both properties are assessed using similar methods, the tax rate will be different for the jewellery store than for the subject property because part of it is used as a residence. That means 51% of the tax rate is residential and 49% of it is non-residential. This means the overall taxes could be lower than they are for the subject property.

[9] Mr. Yau presented three assessment values of House Conversion properties comparable to the subject. They ranged in size from 1144 sq ft above grade to 1953 sq ft above grade. They were assessed at \$535,000 to \$573,000. The 1144 sq ft property (with garage) was assessed at \$535,000.

Board Findings

[10] According to the *Municipal Government Act*, the Board does not have jurisdiction over taxes and tax rates. Taxpayers may take these complaints to the City, or attend the fall City Open Houses to learn more about how rates work.

[11] The value of the subject land is higher than the value of the building on it, therefore this property is assessed at the value of the land on which it stands. It is not assessed according to the building on it. This may push the property to the high end of the assessed values for similar properties.

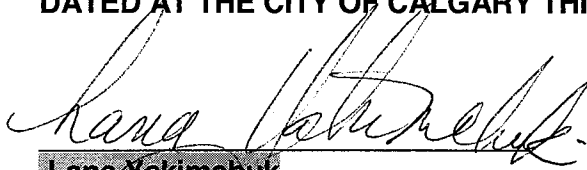
[12] The property is used for a restaurant. It does not have a residential component. Therefore, it is designated 100% non-residential and will attract the corresponding assessment and tax rate.

[13] The assessed value of the subject property is within the range of values for similar properties as shown in the Respondent's evidence (p18, R-1). The Board accepts that the property is assessed equitably.

Board's Decision:

[14] The assessed value of the property is confirmed at \$493,000.

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


Lana Yakimchuk
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
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 MGB Administrative Use Only:

Decision No. 0804-2012-P

Roll No. 092028703

Subject	Type	Issue	Detail	Issue
CARB	House Conversion	Non-Res	Equity	Equity