

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

**between:**

***David Baker c/o CMS Real Estate Ltd. and 360522 Alberta Ltd.,  
(as represented by MNP LLP), COMPLAINANT***

**and**

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

**before:**

***L. Wood, PRESIDING OFFICER  
A. Huskinson, MEMBER  
R. Kodak, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

<b>Roll Number</b>	<b>Location Address</b>	<b>Hearing Number</b>	<b>Assessed Person</b>	<b>2012 Assessment</b>
201427176	2 3610 29 ST NE	65822	David Baker c/o CMS Real Estate Ltd.	\$352,000
201427184	3 3610 29 ST NE	65821	David Baker c/o CMS Real Estate Ltd.	\$362,500
201427192	4 3610 29 ST NE	65820	David Baker c/o CMS Real Estate Ltd.	\$355,000
201427267	11 3610 29 ST NE	65830	360522 Alberta Ltd.	\$360,000
201427275	12 3610 29 ST NE	65829	360522 Alberta Ltd.	\$360,000
201427291	2 3620 29 ST NE	65825	360522 Alberta Ltd.	\$350,000
201427309	3 3620 29 ST NE	65818	360522 Alberta Ltd.	\$350,000
201427325	5 3620 29 ST NE	65819	360522 Alberta Ltd.	\$344,000
201427374	10 3620 29 ST NE	65817	360522 Alberta Ltd.	\$352,000

These complaints were heard on the 17<sup>th</sup> day of July, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- Mr. M. Uhryn Agent, MNP LLP

Appeared on behalf of the Respondent:

- Mr. I. McDermott                      Assessor, City of Calgary

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

[1] The subject properties are light industrial condos located in two multi bay warehouses on a single site. The parties indicated the nine complaints should be heard together as the evidence and argument is similar. The Board agreed with the parties' request.

[2] During his submission, the Complainant indicated that he did not request a reduction in assessment for the properties located at **2 3610 29 St NE**, **3 3610 29 St NE**, and **4 3610 29 St NE**. The Board confirmed the assessments on those three properties accordingly.

[3] The Respondent requested an interim ruling at the conclusion of the Complainant's submission on the basis that onus was not met in this instance. The Board indicated that it was not prepared to make that ruling until all of the evidence and argument from both parties was presented in this matter.

### **Property Description:**

[4] The subject properties are light industrial condos located in two multi bay warehouses on a 2.43 acre site in Horizon. The condos have a net rentable area of 1,616 – 1,668 sq. ft. Four of the condos have 500 sq. ft. of finished area. The improvements were constructed in 1981 and were assessed with a C+ quality rating. The land use designation is I-G, Industrial General.

**Issue:**

[5] The subject properties were not assessed in a fair and equitable manner.

**Complainant's Requested Values:**

[6] The Complainant requested the 2012 assessments for the subject properties be revised as follows:

Roll Number	Location Address	Hearing Number	2012 Assessment	Requested Assessment
201427176	2 3610 29 ST NE	65822	\$352,000	\$352,000
201427184	3 3610 29 ST NE	65821	\$362,500	\$362,500
201427192	4 3610 29 ST NE	65820	\$355,000	\$355,000
201427267	11 3610 29 ST NE	65830	\$360,000	\$305,930
201427275	12 3610 29 ST NE	65829	\$360,000	\$305,930
201427291	2 3620 29 ST NE	65825	\$350,000	\$298,231
201427309	3 3620 29 ST NE	65818	\$350,000	\$298,231
201427325	5 3620 29 ST NE	65819	\$344,000	\$292,577
201427374	10 3620 29 ST NE	65817	\$352,000	\$298,976

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

[7] The Complainant submitted six of the nine industrial condos are not assessed in a fair and equitable manner. He provided an email from his client dated February 29, 2012 which indicated two of the condos are vacant and require a lot of work, and the remaining four condos do not have quality improvements similar to the ones that were confirmed (Exhibit C1 page 107). That email also makes reference to the fact that two of the condos (9 & 10) sold for \$195 psf. The Complainant argued, given the poor interior condition of these units, it will be hard to attract tenants. He argued a downward adjustment of 15% is warranted which is analogous to reductions given to properties subject to local improvements. The Complainant referred to CARB 1913-2011-P in support of his position (Exhibit C1 pages 108 – 112). The Complainant also provided several Withdrawal and/or Agreement to Correction forms from the City of Edmonton's Assessment Department in support of the 15% reduction given to properties subject to local improvements (Exhibit C1 pages 113 – 118).

[8] The Respondent submitted there is a variance in the assessed rates (\$211 - \$219 psf) depending on the level of finish (if any) and size of the condo (one is slightly larger than the others) (Exhibit R1 page 8). The Respondent argued the condos have been assessed in a fair and equitable manner (Exhibit R1 pages 10 – 12). This is further supported by the Complainant accepting the assessed values placed on three of the condos. He argued that CARB 1913-2011-P is distinguishable from the case at hand because that decision related to a local improvement levy (South Foothills Adjustment) (Exhibit R1 pages 14 & 15). In this instance, the subject properties are in a fully serviced area, located near the ARB office. He also argued that little weight should be afforded to the Withdrawal and/or Agreement to Correction forms from a different municipality as no evidence was provided in support of those reductions.

[9] The Board finds there was insufficient evidence to warrant a change in the assessments for the subject properties. There was little evidence presented to the Board regarding the interior condition of the subject properties (for example, there were no photographs provided to show the interior state and condition of the properties; no site inspection was performed etc.). No rental information was submitted on any of the condos in support of the Complainant's position that a variance exists in the lease rates between the condos based on their physical condition. There was also little evidence in support of a vacancy issue other than a statement that two of the condos are vacant. No further details were provided by the Complainant.

[10] The Board placed little weight on the Withdrawal and/or Agreement to Correction forms from the City of Edmonton as there was no evidence to indicate the type of property or the

reasons for the reductions. The Board also noted the forms were incomplete (none of them were signed and dated by the Complainant accepting the assessor's corrected values) and therefore the Board questions the relevancy of these forms for the purpose of this hearing. The Board also placed little weight on CARB 1913-2011-P which dealt with an issue entirely unrelated to the one at hand.

[11] The only compelling evidence from the Complainant is his confirmation of the assessed values applied to three of the condos before the Board. The range of those values indicated an assessed rate of \$211- \$219 psf, depending on whether there was unfinished vs. finished areas. The Board finds those values were applied to the remaining six condos in a fair and consistent manner. The Board has reproduced the Assessment Explanation Supplements for the subject properties, in part, to illustrate the range in values as well as to identify those condos that have unfinished and finished areas (Exhibit C1 pages 89 – 97):

Location Address	Warehouse (SF)	Finished Area (SF)	Upper Office (SF)	Mezz Office (SF)	Total Ground Area	Rate \$/SF	2012 Assessed Value
*2 3610 29 ST NE	1,667	0	0	0	1,667	\$211	\$352,263
*3 3610 29 ST NE	1,168	500	0	0	1,668	\$217	\$362,825
*4 3610 29 ST NE	1,121	500	0	0	1,621	\$219	\$355,397
11 3610 29 ST NE	1,151	500	0	0	1,651	\$218	\$360,123
12 3610 29 ST NE	1,151	500	0	0	1,651	\$218	\$360,123
2 3620 29 ST NE	1,655	0	0	0	1,655	\$212	\$350,458
3 3620 29 ST NE	1,655	0	0	0	1,655	\$212	\$350,458
5 3620 29 ST NE	1,616	0	0	0	1,616	\$213	\$344,211
10 3620 29 ST NE	1,667	0	0	0	1,667	\$211	\$352,315

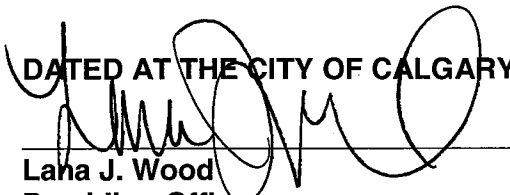
\*The Complainant requested the assessments be confirmed for those properties marked with an asterisk (\*).

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

[12] The decision of the Board is to confirm the 2012 assessments for the subject properties as follows:

Roll Number	Location Address	Hearing Number	2012 Assessment	Board Decision
201427176	2 3610 29 ST NE	65822	\$352,000	Confirmed
201427184	3 3610 29 ST NE	65821	\$362,500	Confirmed
201427192	4 3610 29 ST NE	65820	\$355,000	Confirmed
201427267	11 3610 29 ST NE	65830	\$360,000	Confirmed
201427275	12 3610 29 ST NE	65829	\$360,000	Confirmed
201427291	2 3620 29 ST NE	65825	\$350,000	Confirmed
201427309	3 3620 29 ST NE	65818	\$350,000	Confirmed
201427325	5 3620 29 ST NE	65819	\$344,000	Confirmed
201427374	10 3620 29 ST NE	65817	\$352,000	Confirmed

DATED AT THE CITY OF CALGARY THIS 7<sup>th</sup> DAY OF September 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's Evidence
2. R1	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	Property Sub -Type	Issue	Sub - Issue
CARB	Warehouse	Warehouse Multi Tenant (Unit Ownership)	Sales Approach	Equity Comparables