

**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:

**Estancia Investments Inc
(as represented by MNP LLP), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
J. Massey, MEMBER
A. Wong, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of the property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	067221192
LOCATION ADDRESS:	1177 Kensington Crescent NW
HEARING NUMBER:	65774
ASSESSMENT:	\$1,910,000

The complaint was heard on July 24, 2012, in Boardroom 9 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

G. Worsley; L. Mulholland (Counsel)

Appeared on behalf of the Respondent:

A. Czechowskyj

Board's Decision in Respect of Procedural or Jurisdictional Matters

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description

The subject property is a 15,000 sq.ft. (square foot) parcel of land, improved with an 8,000 sq.ft., A+ quality, two level parkade structure constructed in 1984. The structure covers approximately 53% of the site and accommodates parking for approximately 48 vehicles. The remainder of the site is paved surface parking for approximately 24 vehicles.

Issues

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment amount

The Complainant set out nine grounds for the complaint in section 5 of the complaint form with a requested assessment value of \$900,000; however, only the following issues were in dispute at the hearing:

Issue 1: What are the correct operating costs to be applied to the subject's parking revenues?

Issue 2: What is the most appropriate approach to value the subject property?

Issue 3: Is the market value of the subject property affected by the subject's DC zoning?

Complainant's Requested Assessment

At the hearing, the Complainant requested an assessment of \$920,000. The Complainant also requested an alternate assessment of \$1,120,000.

Board's Decision in Respect of the Issues

Issue 1: What are the correct operating costs to be applied to the subject's parking revenues?

[1] The Complainant argued that the subject's parking revenues should be reduced by 40%, to reflect the operating costs of the property and the allowance provided to all other free-standing parkade structures in the municipality. In support of the argument, the Complainant provided the Assessor's income approach valuation worksheets for the properties located at 1228 and 1240 Kensington Rd. NW, each displaying assessed parking rates of \$160 per month; equal to that of the subject property. The Complainant further provided the Assessor's income approach valuation worksheet for the property located at 722 8 Ave SW, and argued that the \$180 per month operating cost deduction in that instance, represents 40% of the assessed monthly \$450 parking rate.

[2] The Respondent argued that 50% of the subject's parking stalls are leased to occupants of an adjacent office building, and therefore any operating costs are recovered from the tenants in that building. The Respondent also provided the Assessor's income approach valuation worksheets for two "A" class office properties with on-site parking components, to demonstrate that operating cost allowances are not provided where the parking is associated with an office structure.

[3] The Respondent further argued that the subject property effectively has a 40% discount, as the assessed parking revenues have been underestimated. The Respondent submitted that the subject's assessed annual PGI (potential gross income) of \$138,240, is 37% lower than the annual PGI of \$219,320 calculated from the subject's ARFI (Assessment Request For Information) response.

[4] In rebuttal, the Complainant argued that at least 40% of the subject's parking stalls are open for public use; therefore there is no opportunity to recover any operating costs. Further, from an equity perspective, underground parking stalls located only one block away and also assessed at a parking rate of \$160 per month receive a 40% allowance for operating costs.

Decision: Issue 1

[5] The Board finds that there is insufficient relevant evidence in respect of the subject's operating costs.

[6] The Board accepts that there would be some level of operating costs associated with generating the subject's parking revenues, but there was no relevant evidence of what that amount should be. The Board is not persuaded by the Complainant's argument that the operating costs should be identical to that of an underground parkade, as the subject, an open structure, would not have any heating costs.

[7] The Board also rejects the Complainant's argument that the subject is not equitably assessed in relation to the comparables located at 1228 and 1240 Kensington Rd. NW. The comparables and the subject property are each assessed at parking rates of \$160 per month, and contrary to the Complainant's argument, the income approach valuation worksheets in Part III of C1 illustrate that neither of the properties receive a 40% operating cost allowance. The Board further rejects the Complainant's argument that the subject is not equitably assessed in relation to the comparable located at 722 8 Ave SW which receives an operating cost allowance of 40%. Although the Complainant argued that the \$180 per stall operating cost deduction reflects 40% of the \$450 per stall parking rate, the Board notes that the assessed annual parking rate of \$3,240 equates to a monthly parking rate of \$270, and an expense ratio well in excess of the Complainant's requested 40%.

[8] The Board also rejects the Respondent's argument that the subject property is operated in conjunction with an office building from where the parkade operating costs are recovered, as there was no evidence provided to confirm the purported association, or the extent of the operating costs recovered.

[9] In light of the unique physical characteristics of the subject property, the Board notes that it would have been helpful if the parties had provided the subject's actual income and expense operating statements in support of their positions.

Issue 2: What is the most appropriate approach to value the subject property?

[10] The Complainant argued that the property is unique in terms zoning and restrictions, and since there have not been any sales of comparable properties, the most appropriate method of valuation is the cost approach to value.

[11] The Complainant submitted a cost approach valuation of the subject property comprised of a Marshall and Swift improvement valuation, plus the value of the land established by applying the assessed land rate of four, vacant C-COR 2 (Commercial Corridor 2) parcels as set out below:

Component	Replacement Cost New (per sq.ft.)	Depreciation	Depreciated Replacement Cost (per sq.ft.)	Area (sq.ft.)	Value
Improvement	\$47.00	33.33%	\$31.33	8,000	\$ 250,640
Land	\$60.00			15,000	\$ 900,000
Total					\$1150,640

Decision: Issue 2

[12] The Board finds that the cost approach is the most appropriate approach to value the subject property.

[13] Whereas accurate operating costs reflecting the unique physical characteristics of the subject property are unavailable, and there are no sales of comparable properties from which to establish a capitalization rate, the Board is not persuaded that the income approach to value is the most appropriate valuation methodology for the subject property.

[14] The Board accepts that the subject is a unique property in respect of the physical characteristics of the improvement and the 53% site coverage ratio; consequently, the Board finds that the cost approach is the most appropriate valuation methodology for the subject property. The Board notes that the Complainant's cost approach calculations were not challenged by the Respondent, and there was no evidence provided to refute the Complainant's land and improvement cost approach valuation conclusion.

Issue 3: Is the market value of the subject property affected by the subject's DC zoning?

[15] The Complainant argued that the subject property is severely impacted by the current "DC" zoning requirements set out in Bylaw 38Z84, and that the Assessor applies a -25% adjustment to lands zoned "DC". In support of the argument, the Complainant provided a copy of Amendment No. 84/010 of Bylaw 38Z84, and a copy of the Respondent's influence adjustment schedule.

[16] The Respondent argued that as a result of the medical clinic closure, the bylaw requirement to provide public parking to the medical clinic at no charge is no longer a restriction or negative influence.

Decision: Issue 3

[17] The Board finds that the market value of the subject property is not affected by the subject's DC zoning pursuant to Bylaw 38Z84.

[18] Section 2 of Amendment No. 84/010 of Bylaw 38Z84 sets out the development guidelines for the subject property:

"The General Rules for Residential Districts contained in Section 20 of Bylaw 2P80 and the Permitted and Discretionary Rules of the RM-2 (Residential Low Density Multi-Dwelling) District shall apply, except for the following rules which shall apply to parking areas and parking structures only..."

[19] The Board finds that future development of the site is not restricted by the bylaw, which allows the Permitted and Discretionary Rules of the RM-2 (Residential Low Density Multi-Dwelling) District. The exceptions set out apply only to the subject's current use in respect of parking areas and structures.

[20] Accordingly, the Complainant's request for a -25% adjustment of the land value is denied.

The assessment is **REVISED** from: \$1,910,000 to: \$1,150,000.

DATED AT THE CITY OF CALGARY THIS

19

DAY OF SEPTEMBER, 2012.



J. Krysa,
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission (unnumbered)
2. R1	Respondent's Submission (33 pages)
3. C2	Complainant's Rebuttal Submission (17 pages)

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	Parkade	Income Approach v Cost App	Operating Costs; Land Value