

**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:**

***Monterey Square Ltd.  
(as represented by Linnell Taylor Assessment Strategies), COMPLAINANT***

**and**

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

**before:**

***M. Vercillo, PRESIDING OFFICER  
S Rourke, MEMBER  
A. Zindler, MEMBER***

This is a complaint 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:

**ROLL NUMBER: 543138010**

**LOCATION ADDRESS: 2220 68 ST NE**

**FILE NUMBER: 66218**

**ASSESSMENT: \$22,550,000**

This complaint was heard on 8<sup>th</sup> day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- J. Mayer

Appeared on behalf of the Respondent:

- C. Yee

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

**Property Description:**

[2] The subject property is a retail neighbourhood shopping centre located in the "Monterey Park" community of NE Calgary. According to the information provided the property contains eight buildings of various sizes, with a variety of services such as auto repair, a bank, car washes, a pad restaurant, a gas bar, a supermarket and commercial retail units (CRU's). The buildings were constructed in 1993 and have a total assessed rentable area of 100,497 square feet (SF). The buildings are situated on a 12.87 acre (560,818 SF) site and has a land use designation of Commercial – Community 2.

[3] The subject is assessed using the Income Approach to Value. The potential gross income (PGI) calculation uses 12 subcomponents, applying various assessment rental rates to each service space. All spaces include allowances for a 6.25% vacancy rate except for the supermarket and mezzanine space where a 1% vacancy rate is used, operating costs of \$8.00 and a 1.00% non-recoverable rate to calculate net operating income. The net operating income is capitalized for assessment purposes using a 7.25% capitalization rate (cap rate).

**Issues:**

[4] The Complainant addressed the following issue at this hearing:

- 1) The allocation of space among the various assessed subcomponent spaces are incorrect and should be adjusted.

**Complainant's Requested Value:**

[5] \$22,000,000 on the complaint form. \$22,361,572 at this hearing.

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

**ISSUE 1: The allocation of space among the various assessed subcomponent spaces are incorrect and should be adjusted.**

**The Complainant** provided a 44 page document entitled "Disclosure of Information" that was entered as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence or argument with respect to this issue:

[6] A copy of a completed Assessment Request for Information (ARFI) completed in May, 2011. The ARFI showed that suite 740 is occupied by an A&W Restaurant. The restaurant was actually a sub-tenant of the Calgary Co-op supermarket. The Complainant argued that as a sub-tenant, the A&W's 3,345 SF space should not be assessed as CRU space but as supermarket space because the owner collects rent directly from the supermarket. The CRU space is not directly attributable to the owner.

[7] A summary table of subcomponent spaces taken directly from the ARFI. The table highlighted three differences in the allocation of space between the ARFI and the assessment:

- 1) CRU 1001-2500 SF. A minor difference whereby the ARFI calculated a total area of 20,259 SF while the assessment uses a total area of 20,172 SF.
- 2) CRU 2501-6000 SF. The ARFI calculated a total area of 13,048 SF while the assessment uses a total area of 16,393 SF. This difference is directly attributable to the A&W 3,345 SF space.
- 3) Supermarket. The ARFI calculated a total area of 40,883 SF while the assessment uses a total area of 37,538 SF. Again, this difference is directly attributable to the A&W 3,345 SF space.

The Complainant requested that the assessment reflect the subcomponent spaces in accordance with the information gleaned from the ARFI.

**The Respondent** provided a 64 page document entitled "Assessment Brief" that was entered as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence or argument with respect to this issue:

[8] That the 2012 assessment must reflect the condition of the property as at December 31, 2011. The 3,345 SF space is a restaurant CRU space and is assessed accordingly.

[9] The assessment must reflect the Fee Simple Estate in the property.

**The CARB** finds the following with respect to this issue:

[10] That in accordance with legislation, the Respondent is required as to assess the market value of a property using mass appraisal techniques, estimating the fee simple estate of the property, reflecting the market conditions of similar property.

[11] That the Complainant, in his request, appears to be asking that the assessment of the A&W restaurant be reflective of only the "Leased Fee" estate of the property, which is not consistent with assessment legislation.

[12] That the Complainant failed to provide compelling market evidence that the restaurant's assessment is incorrect.

**Board's Decision:**

[13] The complaint is denied and the assessment is confirmed at \$22,550,000.

**The CARB** provides the following reasons for the decision:

[14] The assessment of the subject must reflect its condition as at December 31, 2011. The A&W restaurant space is therefore be assessed correctly as CRU 2501-6000 SF space.

[15] As stated in the CARB findings, the assessor is required by legislation to assess the market value of a property using mass appraisal techniques, estimating the fee simple estate of the property, reflecting the market conditions of similar property. According to The Appraisal of Real Estate: Second Canadian Edition, Chapter 5, Fee Simple estate is defined as "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, expropriation, police power, and escheat." The CARB is of the opinion that the assessment of this restaurant is consistent with the legislation and in accordance with the definition of Fee Simple Estate. In the absence of any compelling market evidence to the contrary, the CARB is satisfied with the assessment of the restaurant.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF August 2012.



**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. 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 Office Only)**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
CARB	Retail	Neighborhood Mall	Income Approach	Leasable area