

**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:**

***La Dolce Vita Restuarants (1982) Ltd.  
(as represented by Assessment Advisory Group Inc.), COMPLAINANT***

**and**

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

**before:**

***M. Vercillo, PRESIDING OFFICER  
J. Lam, MEMBER  
D. Pollard, 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: 056081391**

**LOCATION ADDRESS: 912 1 AV NE**

**FILE NUMBER: 67188**

**ASSESSMENT: \$2,320,000**

This complaint was heard on 28<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 1.

Appeared on behalf of the Complainant:

- *T. Youn*
- *D. Bowman*

Appeared on behalf of the Respondent:

- *R.T. Luchak*

**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 is a single-tenanted two storey freestanding retail property located in the "Bridgeland/Riverside" community of northeast (NE) Calgary. According to the information provided, the property contains one building that was constructed in 1997 and is 10,307 square feet (SF) in size. The building is situated on an assessable land area of 4,903 SF that has a land use designation of Commercial – Corridor 1 (C-COR1).

[3] The subject is assessed using the Income Approach to Value. The building is considered a "B-" class quality building and accordingly is assessed by applying a market rental rate of \$26.00 per SF on the restaurant space and \$2.00 per SF on the storage space to calculate potential gross income (PGI). All spaces include allowances for a 5.00% vacancy rate, operating costs of \$8.00 and a 1.00% non-recoverable rate. The resulting calculation for net operating income (NOI) is capitalized for assessment purposes using a 7.50% capitalization rate (cap rate).

**Issues:**

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

[5] The restaurant space assessed rental rate, applied in the Income Approach to value, should be reduced to \$23.00 per SF.

**Complainant's Requested Value:**

[6] \$1,500,000 on the complaint form. \$2,059,000 at this hearing.

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

**ISSUE 1:      The restaurant space assessed rental rate, applied in the Income Approach to value, should be reduced to \$23.00 per SF.**

**The Complainant** provided a 27 page document entitled "Disclosure of Evidence" that was entered as "Exhibit C1". The Complainant along with Exhibit C1, provided the following evidence or argument with respect to this issue:

[7]      A Business Assessment Summary Report for the subject property. The business assessments indicated an assessment rate of \$24 per SF for the restaurant space and \$2.00 per SF for the storage space.

[8]      A nearby comparable property at 929 GENERAL AV NE that according to the City of Calgary Property Assessment Summary Report was classed as a retail strip shopping centre and had a land use designation of Direct Control District (DC). The building was built in 2005 and has an "A+" class quality rating. The corresponding Business Assessment Summary Report indicated an assessment rate of \$23 per SF for the 2,859 SF of restaurant space.

[9]      A comparable property at 200 8 AV SE that according to the City of Calgary Property Assessment Summary Report was classed as a retail/office building and had a land use designation of Downtown Business District. The building was built in 1911 and has an "A2" class quality rating. The corresponding Business Assessment Summary Report indicated an assessment rate of \$26 per SF for the 8,575 SF of restaurant space.

[10]     A comparable property at 201 10 ST NW that according to the City of Calgary Property Assessment Summary Report was classed as a retail strip shopping centre and had a land use designation of Commercial Corridor 1 (C-COR1). The building was built in 1975 and had a "B+" class quality rating. The corresponding Business Assessment Summary Report indicated an assessment rate of \$19 per SF for the 5,430 SF of restaurant space.

[11]     A comparable property at 2404 EDMONTON TR NE that according to the City of Calgary Property Assessment Summary Report was classed as a retail strip shopping centre and has a land use designation of Commercial Neighbourhood 2 (C-N2). The building was built in 1990 and has an "A2" class quality rating. The corresponding Income Approach assessment used a market rental rate of \$25.00 per SF on the commercial retail units (CRU) between 0-1,000 SF and \$24.00 per SF on CRU between 1,001-2,500 SF.

[12]

**The Respondent** provided a 50 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:

[13]     That the Complainant's comparables are not similar to the subject in that they either retail strip centres or a retail/office building in the downtown commercial core. The markets for both of these types of properties are significantly different from the subject.

[14]     That the use of business assessment rates for developing Income Approach valuations of property assessments is inappropriate because they typically include reductions for Tenant Improvements (TI).

[15] Income Approach assessments for the following restaurant properties:

- 1) 3321 20 AV NE.
- 2) 1214 9 AV SE.
- 3) 2047 34 AV SW.
- 4) 2418 EDMONTON TR NE.

In each case the restaurant space used an equitable market rental rate to the subject of \$26.00 per SF.

[16] Income Approach assessments for two of the Complainant's comparables:

- 1) 200 8 AV SE. Market rental rates used were \$20.00 per SF for lower level retail space and \$33.00 per SF for main level retail space.
- 2) 929 GENERAL AV NE. Market rental rates used were \$32.00 per SF for CRU space between 0-1,000 SF, \$30.00 per SF for CRU space between 1,001-2,500 SF and \$25.00 per SF on CRU space between 2,501-6,000 SF.

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

[17] That the Complainant comparables are not comparable to the subject in many important factors such as land use designation, sub property use, year of construction or quality rating of the buildings.

[18] That the use of Business Assessment Rates is inappropriate in the Income Approach valuation of property assessments because of potential reduction in TI allowances. The Complainant did not provide any information on TI allowances.

[19] The Respondent did provide four examples of restaurant assessments that used the same market rental rates in their Income Approach valuations as the subject.

[20] The Respondent provided Income Approach assessments on two of the Complainant's comparables which used rental rates that would not justify the Complainant's request of \$23.00 per SF rate on restaurant space.

**Board's Decision:**

[21] The complaint is denied and the assessment is confirmed at \$2,320,000

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

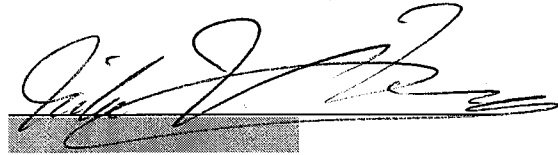
[22] The Complainant failed to provide evidence to substantiate or support his request.

[23] The use of Business Assessment rates in property assessments is inappropriate in this case due to the lack of information on TI allowances.

[24] The Complainant's comparables could not justify his request for using a \$23.00 per SF rate on restaurant space.

[25] The Respondent provided examples of restaurant assessments that were equitable to the subject and were not sufficiently rebutted by the Complainant.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF SEPTEMBER 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)**

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Retail	Stand Alone	Income Approach	Lease Rates