

**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:

***Liv Urban Developments Ltd.
(as represented by Assessment Advisory Group Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***I. Zacharopoulos, PRESIDING OFFICER
S. Rourke, MEMBER***

[1] 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 2011 Assessment Roll as follows:

ROLL NUMBER: 079009502

LOCATION ADDRESS: 1801 1 ST SE

HEARING NUMBER: 63335

ASSESSMENT: \$1,440,000

[2] This complaint was heard by a Composite Assessment Review Board (the Board) on August 5th, 2011 at the office of the Assessment Review Board located at 4th floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

[3] Appeared on behalf of the Complainant:

- *Mr. S. Cobb* *Assessment Advisory Group Inc.*

[4] Appeared on behalf of the Respondent:

- *Mr. J. Toogood* *City of Calgary Assessment*

BOARD'S DECISION IN RESPECT OF PROCEDURAL OR JURISDICTIONAL MATTERS:

[5] No procedural or jurisdictional matters were raised.

PROPERTY DESCRIPTION:

[6] The subject property is identified as a house conversion development located at the intersection of 18th Avenue and 1st Street SE within the Mission community in SE Calgary. The land area is 5,000 square feet (sf) while the building's year of construction is shown to be 1985 with an assessed area is a total of 4,080 square feet (sf) over 3 levels: upper floor residential, main floor retail and the lower/basement level storage. The assessment is developed through the Direct Sales Comparison approach to value and is based on a uniform rate of \$352.94/sf of building area as per Doc. R-1, pg 10.

REGARDING BREVITY:

[7] In the interests of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

MATTERS/ISSUES:

[8] The matter identified by the Complainant as the basis for this complaint is "an assessment amount".

[9] The Complainant's position is based on the following issues:

1. **Does the Complainant's Direct Sales Comparison Approach (DSCA) to value analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?**
2. **Does the Complainant's Income Approach to Value (IAV) analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?**

COMPLAINANT'S REQUESTED VALUE:

[10] The Complainant requests an assessment of \$639,744 as per Doc. C-1, pg 18. The Assessment Review Board Complaint form shows \$1,200,000. The Complainant's Summary of Testimonial Evidence suggests an assessment of \$3,310,000 which the Complainant dismissed as an error.

BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE:

[11] Along with the evidence the parties presented at the hearing the Board referenced the Municipal Government Act (MGA) and associated Regulations in arriving at its decision. We found the following to be particularly applicable to the complaint before us:

- **Municipal Government Act** Part 9 and Part 11.
- **Matters Relating to Assessment and Taxation Regulation 220/2004** (MRAT) Section 1; Part 1 and Part 5.1.
- **Matters Relating to Assessment Complaints Regulation 310/2009** (MRAC) Division 2 and Schedule 1.

[12] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. Evidence and argument was put before the Board by the Complainant in that regard; to show the assessment is incorrect and to provide an alternate market value as of July 1, 2010. The Board is to determine if (within the direction of the MGA and associated Regulations) it has been swayed to find the assessment before us to be incorrect and if the market value determination as of July 1, 2010 should be revised.

[13] With regard to the issue identified above the Board's findings are as follows:

1. **Does the Complainant's Direct Sales Comparison Approach (DSCA) to value analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?**

[14] The Complainant presented 5 sales in support of his position all advanced as house conversion developments (see C-1 pg 10 through 14). The Complainant did not provide an analysis of these market transactions other than to reference the Alberta Datasearch reports showing a range of \$446.72 to \$673.08/sf of building area. The Complainant did propose that these properties were purchased for the value of the underlying land and thus indicate a range from \$121.92 to \$474.14/sf of land area.

[15] The Respondent provided 4 sales of house conversion developments in support of the assessment, as per the chart found under Doc. R-1, pg 24. The range is shown to be from \$267.94 to \$673.08/sf of building area with a calculated median of \$507.09/sf.

[16] The Board finds the only details regarding the collective 9 market sales is the documentation prepared by Alberta Datasearch – a third party reporting service. Upon consideration of the market data the Board finds the assessment rate of \$352.94/sf falls within the range of reported values provided by the Complainant while his request (which calculates to \$156.80/sf) is well below the provided market range.

[17] The Board further finds the Complainant's proposed land based valuation is not

compelling as the subject assessment calculates to \$288.00/sf of land, well within the range of notional land values he advanced as per [14] above.

[18] The Board therefore finds the Complainant's DSCA analysis does not produce an appropriate assessment indicator for the subject property as of July 1, 2010.

2. Does the Complainant's IAV calculation produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?

[19] The Complainant has provided a valuation as per the IAV based on the following inputs (see Doc. C-1, pg 18):

- Rent: \$12.00/sf
- Vacancy: 0%
- Shortfall: \$7.00/sf
- Non recoverables: 2%
- Capitalization rate (cap rate): 7.50%

[20] The Complainant's rent request is based on the reported actual income to the subject property as per Doc. C-1, pg 15. The other parameters are advanced as representative of City analysis as per Doc. C-1, pg 19.

[21] The Respondent characterized the City documents presented by the Complainant as preliminary consideration for properties in retail locations dissimilar to the subject's.

[22] The Board finds the Complainant's attempted IAV assumptions are not supported by market evidence and therefore not established as effective market based indicators.

[23] Consequently, the Board finds the Complainant's IAV calculation does not produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010.

[24] The Complainant alluded during the hearing to the basement storage space at the subject property; questioning the appropriateness of valuing that space at the same rate as the above ground space.

[25] The Board found the market data before us was not sufficiently analyzed as to provide a value basis for specific space – be it below or above ground. Furthermore, the Board found no references to like properties to support market based rationale for a revision to the subject assessment.

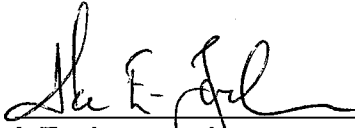
[26] The Complainant also pointed to the year-over-year 6.7% increase in assessment of the subject property, suggesting there is no evidence to support such an increase.

[27] The Board finds no analysis was provided to address potential year-over-year fluctuations in the marketplace or the assessment base. Therefore, this unsupported objection to annual assessment fluctuations is not persuasive.

BOARD'S DECISION:

[28] The assessment is confirmed at \$1,440,000.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF SEPTEMBER 2011.

A handwritten signature in black ink, appearing to read 'I. Zacharopoulos', written over a horizontal line.

**I. Zacharopoulos
Presiding Officer**

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

NO.	ITEM
1. Doc. C-1	Complainant's Disclosure
2. Doc. R-1	Respondent's 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.*