

**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:

Mark Yuming Chen (as represented by Colliers International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***P. Petry, PRESIDING OFFICER
A. Huskinson, BOARD MEMBER
R. Kodak, BOARD MEMBER***

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 2012 Assessment Roll as follows:

ROLL NUMBER: 080115009

LOCATION ADDRESS: 538 – 23 Avenue S.W.

FILE NUMBER: 65787

ASSESSMENT: \$939,000

This complaint was heard on the 23rd day of August, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue N.E. Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *J. Havrilchak*

Appeared on behalf of the Respondent:

- S. Bazin

Property Description and Background

The subject property is a five unit multi residential property located in the Cliff Bungalow area of southwest Calgary. The improvement on the property was constructed in 1937 and is situated on a corner lot consisting of 6,882 square feet (sq. ft.) of land. The land use zoning for this property is M-CG d111.

The subject property has been valued by the Assessor using the land value only approach to value. The Complainant has based its request on the gross income multiplier (GIM) approach to value.

Issues:

- [1] Does the Gross Income Multiplier (GIM) approach to value, as applied by the Complainant, produce a better estimate of the subject property's market than does the land value only approach used to develop the assessment?
- [2] Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB) on March 2, 2012. The only issues, however, that the parties sought to have the Composite Assessment Review Board (CARB) address in the hearing on August 23, 2012 are those referred to above, therefore the CARB has not addressed any of the other matters or issues initially raised in the Complaint.

Complainant's Requested Value:

- [3] Based on the changes proposed by the Complainant, the request is to reduce the assessment to \$530,000.00.

Board's Decision in Respect to the Matter or Issue:

- [4] The CARB's decision is that the GIM approach does not produce a better estimate of the subject property's market value and therefore the assessment of \$939,000.00 is confirmed.

Summary of the Party's Positions

Complainant

[5] The Complainant argued that the rental rate applied to the subject and the resulting 12% increase over the previous years' assessment is not consistent with the recent market activity.

[6] The Complainant proposed a value developed by applying a GIM approach to value. The income used was based on a rental rate of \$775 per month for the 3 one bedroom units and \$650 per month for the 2 bachelor units. The Complainant also applied a vacancy allowance of 4.75% and a GIM of 13.00 to arrive at its proposed value of \$530,000.

[7] In support of the values applied above, the Complainant offered the City of Calgary's 2012 Assessment Explanation Supplement reports for two other properties. The first property at 536 – 20 Avenue S.W. is a 2.5 story building with 10 rental units, was built in 1965 and located in the same community (CL1) as the subject. The report showed the following: a rental rate used by the City for one bedroom units at \$800 per month, the vacancy allowance at 4.75% and the GIM at 13.00.

[8] The second property at 1719 – 10A Street S.W. is a 2.5 story building with 11 units, was built in 1955 and is located in a community designated Lower Mount Royal (LMR). The report showed the following: a rental rate used by the City for a bachelor unit at \$600 per month; for one bedroom units at \$800 per month; a vacancy allowance at 4.75% and the GIM at 13.00. The City's building type code for both comparable properties is MR0201 (apartment – lowrise).

[9] The Complainant also brought forward a twelve – month profit and loss projection dated January 2004 that showed a projected loss of \$7,293.

[10] The Complainant in its rebuttal brought forward zoning information and argued that the City of Calgary's comparable is in fact not comparable to the subject due to the zoning restrictions that apply to the subject and not to the comparable. The subject is in a lower density area where permissible height is lower and many other restrictions affect the subject, making it incomparable with the sold property offered by the City.

Respondent

[11] The Respondent argued that the value of the subject's underlying land exceeds its income value and therefore the assessment is based on its land value only. The assessment has been developed using a value of \$130 per sq. ft. for the 6,882 sq. ft. of the subject parcel plus an additional 5% because it is located on a corner. This yields an assessment of \$939,000.

[12] The Assessor argued that a year over year increase in the assessment is not in itself reason to alter the assessment as there may have been an issue with the previous years' assessment. Each year the Assessor is required to conduct a new annual assessment and apply the market data that pertains to that year.

[13] The Respondent brought forward one sale at 836 Royal Avenue S.W. which it stated was close in location and similar to the subject. This sale was to demonstrate the reasonableness of the land value of \$130 per sq. ft.. The property sold June 14, 2011 for a sum of \$3,450,000 or \$186.62 per sq. ft.. This parcel is 18,586 sq. ft. in size, has a land use designation of M-C2 and is located in the community designated Lower Mount Royal (LMR).

[14] The Respondent referred the CARB to a number of previous ARB and CARB decisions which it believes support its assessment approach using the value in land only.

Findings and Reasons for the Board's Decision:

[15] The improvement to the subject property was built in 1937 and from the photographs it appears to be an older home that has been converted to a five unit multi residential property. The Complainant led no direct evidence or argument to show that the land value only approach does not result in a correct, fair and equitable value for the subject. The corner lot location and the age of the development coupled with the larger size of its land, make it a candidate for a highest and best use review. The Respondent claimed that the typical net income from the property yields a value below that of its underlying land value and therefore the assessment is based on the value in land only.

[16] The Complainant argued that the Comparable used by the Respondent to support the land value applied to the subject property is not similar in size, location or land use zoning. On this point the CARB agrees with the Complainant. However, this fact is not sufficient to overturn the assessment.

[17] The CARB carefully considered the alternative method and underlying values applied by the Complainant to produce their recommended value of \$530,000.00. The CARB found the Complainant's approach to be unreliable and flawed because of the following:

- The subject has only five residential units while the two comparables from which the Complainant drew its typical factor values are approximately twice the size of the subject. The Respondent indicated that for assessment purposes multi residential properties are categorized based in part on the number of units. Properties with nine or more units are in a different category than the subject and will have differences in the typical factor values used to produce their assessments.
- The CARB is not aware as to the source of the rental rates used by the Complainant as there is no analysis in evidence nor do these values match the rent values shown in the report details for the comparables. Because of the dissimilarity between the Comparables and the subject, in particular the one in Lower Mount Royal, the CARB found it could not properly weigh the question of inequity.
- No sales were brought forward to confirm that the value arrived at by the Complainant reflected a better estimate of the subject property's market value than that value applied by the Assessor.
- Therefore the CARB concludes that the factor values arising from the Complainant's comparables will not yield a correct or equitable assessment for the subject.
- The Complainant did not produce any evidence to show that the current improvement is the highest and best use of the property.
- The Complainant did not introduce any evidence to show that an incorrect land value had been applied by the Assessor but simply argued that the one sale used to defend the assessment was not comparable.
- The Complainant brought forward a projection of profit/loss for 2004. This information is not found to be relevant to the complaint nor could the Board determine if it referred to

the subject property.

[18] The Complainant must go beyond showing a weakness in the Respondent's defence of the assessment. The Complainant bears the onus to provide sufficient and compelling evidence to support an alternate value that is shown to be a better reflection of the property's market value on July 1, 2011.

Summary

[19] The Complainant sought to have the CARB apply a GIM approach to determine the market value of the subject at July 1, 2011. The Complainant had not undertaken any specific studies to determine the typical rental rates, vacancy allowance, or GIM multiplier but instead had sought to have the CARB adopt these values from two other assessment reports. The Complainant did not use the income factors from these reports and for this and other reasons addressed earlier, the CARB did not find sufficient similarity between the Complainant's comparables and the subject to allow it to adopt the GIM approach as applied. The assessment is therefore confirmed at a value of \$939,000.00.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF October 2012.



Paul Petry, Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure

2. C2
3. R1

Complainant Rebuttal
Respondent Disclosure

An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:

470(1) *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.*

470(2) *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).*

470(3) *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
Residential	Multi Residential		Land only value vs GIM	

