

**COMPOSITE
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 (MGA).

between:

***McDonalds Restaurants of Canada Limited*
(as represented by *Colliers International*), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**C. J. Griffin, Presiding Officer
Y. Nesry, MEMBER
B. Bickford, MEMBER**

This is a complaint to the Composite Assessment Review Board (CARB) 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: 543125504 & 028288306

LOCATION ADDRESS: 1920 – 68 Street NE & 5219 Falsbridge Drive NE

HEARING NUMBER: 68362 & 68369

ASSESSMENT: \$1,580,000. & \$2,310,000 (respectively)

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

Appeared on behalf of the Complainant:

- J. Havrilchak

Appeared on behalf of the Respondent:

- M. Ryan

Procedural Matters:

[1] The two properties identified in this Decision share one common owner and the issue(s) are identical in both cases. As a result of the foregoing the evidence and argument for both properties is also identical. As a matter of expedience this Decision is applicable to both properties.

Property Description:

[2] The subject properties are both free standing fast food restaurants (McDonald's). In the case of the 68th Street property it is reportedly 3,890 Sq. ft. in size and in the case of the Falsbridge property it is reportedly 5,455 Sq. ft. in size. No other detail relating to the physical description of the properties was provided by either party.

Issues:

[3] There are a number of interrelated issues outlined on the Assessment Review Board Complaint form; however, at the Hearing the Complainant reduced the issues to be considered by the CARB to:

1. The assessed subject restaurants have been given an 'A' classification by the assessor when a 'B' classification would be more appropriate. This has resulted in an inequity.
2. As a result of the above given classification issue the properties have been assessed with a \$33/Sq. Ft. rental rate having been applied. A more appropriate rental rate for the subject properties is \$26/Sq. Ft.

Complainant's Requested Value: Roll # 543125504 \$1,240,000. (Exhibit C1 pg. 8)
Roll # 028288306 \$1,830,000. (Exhibit C1 pg. 10)
(above values are truncated)

Party Positions:**Complainant's Position**

[4] The Complainant contends that the subject properties have been improperly classified as being 'A' class fast food restaurants and that a 'B' classification is more appropriate given the vintage, size and location of same. In support of this contention the Complainant introduced ((Exhibit C-1 pg. 10) a comparison chart showing the age, location, size classification and traffic counts of eight (8) similar and competing McDonalds fast food restaurants located in various parts of the city. The Complainant also introduced (Exhibit C-1 pgs. 18 -26) traffic count maps to verify the information in the aforementioned chart. Additionally, and in support of their 'equity' argument, the Complainant also introduced (Exhibit C-1 pgs. 27 – 57) copies of both the *Bramalea Ltd. v BC Assessor for Area 9* and *Bentall Retail Services v BC Assessor for Area 9*.

Respondent's Position

[5] The Respondent introduced (Exhibit R-1 pg. 13) an explanation as to the basis for property classification. Based upon the foregoing the Assessor maintains that the subject

properties have been properly classified. In response to the equity issue brought forward by the Complainant, the Respondent introduced (Exhibit R-1 pg. 15) a *NE Restaurant Equity Comparables* chart indicating seven (7) northeast located fast food restaurants, their age, classification and size and a common assessed rental rate of \$33/Sq. Ft. Based upon this information the Assessor maintains that the subject properties have indeed been properly classified and they are equitably assessed in comparison to other similar northeast located fast food restaurants.

Board's Decision:

[6] The assessments are **confirmed** at:

Roll # 543125504 \$1,580,000.

Roll # 028288306 \$2,310,000.

Decision Reasons:

[7] The Complainant provided no market based information to support their contention that the subject properties have been classified incorrectly and have been valued on the basis of an inappropriate rental rate. The Complainant did provide photographs of competing fast food restaurants located in various parts of the city together with the traffic counts of the main roads fronting same; however, this, in the judgment of the CARB was insufficient data to warrant an adjustment to the assessed values.

[8] It is the responsibility of the Complainant to provide the CARB with irrefutable market based evidence that supports their requested assessed value and in this case no such evidence was provided for the CARB to consider.

DATED AT THE CITY OF CALGARY THIS 4th DAY OF Oct 2012.



C. J. Griffin,
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
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 Administrative Use Only

Decision No. 1691-2012-P		Roll No. 543125504 & 028288306		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Lease rate	Classification	Equity