

**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:

***Spiros Pizza And Spaghetti House LTD. (as represented by Altus Group LTD.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

**T. Golden, PRESIDING OFFICER
K. Coolidge , MEMBER
A. Huskinson 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: 082211301

LOCATION ADDRESS: 1902 33 St SW

FILE NUMBER: 67757

ASSESSMENT: \$824,500.00

This complaint was heard on 4 day of September, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- C. Fong

Appeared on behalf of the Respondent:

- H. Yau

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

- [1] There were no procedural issues.

Property Description:

[2] The subject property is a 1952 free standing retail operation and is a restaurant of 3097 square feet (sq ft) on a lot .14 acres in size. A separate parking area is located on the adjacent parcel (refer to file 67763). The assessment was prepared on the income approach using an "A" class rental rate.

Issues:

- [3] 1) Is the "A" class rental rate of \$33.00 per sq ft the appropriate rate to be applied?

Complainant's Requested Value: \$480,000.00

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

[4] 1) "A" class rental rate of \$33.00 per sq ft is inappropriate and a more applicable rental rate is the "B" rate of \$26.00 per sq ft.

[5] The Complainant explained that the retail use is a long standing family operated restaurant. Although the building has had regular maintenance there has been no major renovations conducted since the building was constructed in 1952. Given the age and condition of the building a rating as an "A" restaurant is not correct. The Complainant suggests that the structure is more appropriately categorized as a "C" which has a rental rate of \$17.00 per sq ft. When the \$17.00 rate is used in the income approach calculation the result is the requested assessment.

[6] In support of the reduced rental rate the Complainant presented a series of comparables to demonstrate that the classification of the subject is in error. Comparables were intended to illustrate both, how different the subject property is from the typical "A" class restaurant and secondly present similar properties to the subject that are classed as "B" and "C". A property at 2803 17 AV SW was an example of an "A" class property. This property is twice the parcel size

of the subject and constructed in the year 2000. The Complainant stated that this is the typical "A" class restaurant.

[7] Three additional comparables were shown to the Board of properties similar to the subject all rated class "B" and "C".

[8] The Respondent described the restaurant class rates that are applied across the City. "A+" classification has a rate of \$36.00 per sq ft, "A" is at \$33.00 per sq ft, "B" class is at \$26.00 sq ft, and lastly "C" class has a rate of \$17.00 per sq ft. Classes are assigned using several criteria but a main consideration is the location of the operation. The subject property is located on the busy 17 AV SW and will benefit by the construction of a new LRT station.

[9] The Respondent discussed the classification system suggesting that location is an influential factor in the determination of the category applied. The subject property is located on a busy transportation artery and will be close to the new LRT station. Given this location the subject is an "A" class.

[10] The subject's "A" quality classification was supported by an equity table of 4 restaurant properties all assigned an "A" class lease rate of \$33.00 per sq ft. A second table of three lease comparables was presented showing lease comparables. Two of the properties contained the lease comparable table are the subject property. The Respondent informed the Board that the owners of the property have a lease with a family member to operate the restaurant and this lease is at \$33.00 per sq ft according to the Assessment Request for Information forms (ARFI).

[11] The Board found 3 of the Respondent's equity comparables questionable. In the equity table; one listing is the subject property, the property at 3504 19 ST SW had no supporting information and is only 640 sq ft, finally the comparable at 4604 37 ST SW is not a free standing retail structure. The Board found the three of the equity comparables provided by the Respondent were not reliable as applied to the subject as they were the subject. This leaves the property at 3708 17 AV SW which is a Wendy's fast food restaurant.

[12] The lease rate comparables included the subject property which was considered by the Board to be not reliable as the lease is considered to be non-arm's length. This again leaves the property at 3708 17 AV SW as the only comparable "A" class to consider. When this remaining comparable is reviewed, the Board finds it is not similar to the subject. Although located in close proximity to the subject it lies on a superior site, is a much newer structure built in 1980, and is maintained to the level of an international fast food restaurant chain.

[13] The evidence presented by the Complainant indicates that the "A" classification is inappropriate. To establish the proper classification the Board looked to the comparables presented by the Complainant. In particular the property at 2807 17 AV SW, Giant D Hamburgers, was considered to exhibit the most similar characteristics to the subject property. Giant D Hamburgers is a building constructed in 1954 as opposed to the subject's year of construction of 1952. The comparable appears to be a similar structure in a similar location and is a class "B" restaurant.

[14] The Complainant requested a "C" classification however the Board notes the Complainant's comparable at 2701 17 AV SW is a larger building built in 1935 does not serve as a better comparable to the subject. The Board finds that the subject property is more appropriately classified as a "B" restaurant and the appropriate lease rate is \$26.00 per sq ft.

Board's Decision:

[15] The assessment is revised and reduced to \$675,500.00

DATED AT THE CITY OF CALGARY THIS 28th DAY OF Sept 2012.



Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R2	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.*

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Commercial	Retail	Sales Approach	Land value