

**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: 082211400

LOCATION ADDRESS: 1908 33 St SW

FILE NUMBER: 67763

ASSESSMENT: \$359,500.00

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] This property and roll number is the parking lot associated with the commercial use of file 67757. These two files were heard together.

Property Description:

[2] The subject property is a vacant property .14 acres in size. The land is used as a parking for the adjoining restaurant and owned and operated by the same persons. The parking lot is required for the restaurant to operate although there are no legal instruments binding the two properties. The property has a separate roll number and assessment.

Issues:

[3] Should the vacant land/parking lot be assessed as part of the adjacent lot that contains the restaurant or be assessed as a separate roll number

Complainant's Requested Value: \$0.00

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

[4] The Complainant described the subject property as a parking lot that serves only the adjoining parcel by providing necessary parking to the restaurant. The restaurant could not operate without the parking and it is required by the City. With this close association between the parcels the Complainant argues that the value of the parking area is captured in the assessment of the restaurant.

[5] The title for the subject land has been consolidated with the adjacent parcel and a new title was presented to the Board confirming the consolidation. The land value applied to the parcel was not challenged.

[6] The Respondent advised the Board that they are required to assess the fee simple interest of the parcel. The subject property was as of the assessment date and condition date, a separate title and roll number therefore required a separate assessment.

[7] The Board finds that the Respondent is correct and a separate assessment is appropriate for the subject property. The Complainant provided the newly consolidated title for

the restaurant and the subject property dated March 8 2012. The Board notes that the assessment date and condition date are in 2011. Therefore the consolidation for the assessment period under review.

Board's Decision:

[8] The assessment is confirmed at \$359,500.00

DATED AT THE CITY OF CALGARY THIS 27 DAY OF September 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	other	Parking lot	Sales Approach	Land value