

**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:

***1470092 Alberta Inc.(as represented by Frank Meriwether company President),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***T Golden PRESIDING OFFICER
R Roy MEMBER
G Milne 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:	201383205
LOCATION ADDRESS:	101 1118 12 AV SW
FILE NUMBER:	65697
ASSESSMENT:	\$435,500

This complaint was heard on 17 day of September, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *Frank Meriwether*

Appeared on behalf of the Respondent:

- *R. Farkas*

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

[1] The Complainant pointed out that the City disclosure should have been received by the Complainant by September 4, 2012. Disclosure did not occur by the required time so the Complainant contacted the City regarding the disclosure and received the documents on September 7, 2012. In the opinion of the Complainant given the disclosure was late then in accordance with section 9 (1) of Matters Related to Assessment Complaints Regulation the disclosure should not be allowed in the hearing.

[2] The Respondent provided the Board with exhibit R-1 showing the disclosure was sent at 12:19 PM on September 4, to the address given on the Complaint form however received a notice that the message was not delivered. The e-mail address given on the form was not correct. Using an e-mail address taken from a previous communication with the Complainant the disclosure was again sent at 12:24 pm September 4. The Complainant did not receive the information at this address. Exhibit C-1 indicates that the Complainant had received other communications from the City at the e-mail address used by the respondent for the disclosure.

[3] The Board noted the wording of section 8 of Matters Related to Assessment Complaints Regulation refers to "disclose" information. This in the Board's opinion refers to the sending of information in a timely and reasonable manner. The Respondent made the effort to find the correct address and disclosed the information. The Complainant may not have seen the disclosure but the Board is persuaded it was sent within the time periods outlined in the Regulation. Consequently the Respondent's disclosure will be heard by the Board.

Property Description:

[4] The property is a non-residential condominium unit of 1281 square feet in size located in the Beltline area and is part of a residential condominium building of multiple stories constructed in 2007. The unit is one of several non-residential units on the main floor of a high rise residential condominium tower. Currently a custom glass crafting shop operates from the premises. The structure is classified as an A2 quality building and assessed at a rate of \$340.00 per sq ft using the sales comparison approach.

Issues:

[5] 1. Does the sales approach to assessment yield the correct assessment for the subject property?

Complainant's Requested Value: \$200,000.00

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

[6] 1. The sales approach to assessment yielded the correct assessment for the subject property.

[7] The Complainant stated he was at a disadvantage because of the Board's decision on the preliminary matter to proceed using the Respondents evidence, then proceeded to explain how the property was over assessed. In the Complainant's opinion the assessment failed to recognize a series of problems the property experiences. Firstly the street frontage does not provide a good pedestrian access for the glass business. There was also constant construction activity on the adjacent site causing disruption of both car and foot traffic to the detriment of the subject property. The Complainant pointed to the general loss of land values in the City after his purchase of the subject in 2008. Lastly; given that the structure was constructed during the boom years there was apparently a series of flaws in the complex causing extra costs to operate.

[8] The City method of using the sales approach to determine value did not recognize these detrimental issues however an assessment based on an income approach is a better way to determine value. An income calculation conducted by the Complainant is included in exhibit C-2. This income calculation includes a \$24.00 market rent, a 13% vacancy rate and a cap rate of 8.5% and yields the requested value of \$200,000.00. This value was supported by three sales, felt by the Complainant to be similar to the subject, indicating the City \$340.00 per sq ft was excessive.

[9] The Respondent questioned the evidence presented by the Complainant firstly regarding the source of the inputs to the income calculation and secondly the comparability of the properties used in support of the requested value. The contention of the Respondent was that the income calculation was not applicable as the source of the inputs were not established and the comparables were for different classes of buildings.

[10] The Respondent proceeded to discuss how the City's assessment was conducted and the analysis that occurs in the preparation of the various inputs to the mass appraisal system.

[11] Although the Board recognized the Complainant's issues, related to the location and building condition, the Board notes that the issues often relate to the business operating in the condominium space and the assessment is related to the value of the property. All the issues presented are understandable but the market value impact of these issues was not made apparent to the Board. Suggesting an income approach would recognize the issues was not proven and the income calculation by the Complainant was suspect as the inputs to the formula were without substantiation.

[12] The Board accepted the Respondents position that the Complainant's comparables were not similar to the subject property as two comparables were B class structures and one sale was dated being 2008. The Board was not convinced the assessment was in error given the evidence provided by the Complainant.

Board's Decision:

[13] The assessment is confirmed at \$435,500.00

DATED AT THE CITY OF CALGARY THIS 26th DAY OF Oct 2012.



Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	E mail regarding disclosure date
2. C2	Complainant Disclosure
3. R1	E mail regarding disclosure date
4. R 2	E mail regarding disclosure date
5. R3	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	Retail	Non res Condo	Sale Approach	Land value