

**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:

***McDonald's Restaurants of Canada Limited
(as represented by Colliers International Realty Advisors Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
R. Deschaine, MEMBER
P. McKenna, 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:	090076605
LOCATION ADDRESS:	3912 Macleod Trail S.E.
HEARING NUMBER:	68310
ASSESSMENT:	\$3,240,000

- [1] This complaint was heard on 1st day of October, 2012 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- T. Howell

Appeared on behalf of the Respondent:

- E. D'Altorio

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

- [2] There were no procedural or jurisdictional issues raised by either party. Neither party objected to the Board as constituted to this matter. The merit hearing proceeded.

Property Description:

- [3] The subject is a 0.937 acre or 40,803 square foot (SF) property located at 3912 Macleod Trail SE on the western edge of the Manchester Industrial District, fronting on Macleod Trail South. The subject is zoned Industrial – General (I-G) and in the Macleod Trail 2 (MT2) assessment zone. It is improved with one stand-alone retail building used as a McDonald's Restaurant. The site is a typical McDonald's Restaurant property with a drive-through and on site parking.
- [4] The property is assessed as bare land value only, based on a sales comparison approach. The property has a corner influence of +5% indicated on the 2012 Assessment Explanation Supplement. The total 2012 assessment is \$3,240,000 as indicated in the 2012 Property Assessment Notice.

Complainant's Requested Value: \$2,570,000 as requested at the hearing

Issues:

The issues relate to determining the correct 2012 assessment for the subject property, and specifically:

1. What rate reflects the market value of the bare land for the subject property?

Issue 1: Market Value of the Subject Bare Land Property**Complainant's Evidence**

- [5] The Complainant did not dispute the size of the property (40,308 SF) or the 5% corner influence factor used by the City in calculating its 2012 assessment. The Complainant disputed the market value rates applied by the City to the bare land to calculate the 2012 Assessment. The Complainant's position is that the correct market value rate for assessment purposes is \$60/SF for the entire 40,308 SF of site area, not the \$100/SF rate applied to the first 20,000 SF of site area and \$60/SF rate applied to the remaining 20,308 SF of site area. The Complainant did not dispute the \$60/SF rate applied to the 20,308 SF above the initial 20,000 SF.
- [6] The Complainant presented a sale of a McDonald's Restaurant property located at 7212 Macleod Trail S.E. that sold in November 2009 for a total price of \$2,900,000 (page 12-19, Exhibit C1). The property is a 1.03 acre site with frontage on Macleod Trail South, and sold with an improvement in place (McDonald's Restaurant). The sale price indicates a value of \$65/SF and is the only market sale that occurred on Macleod Trail in the last three years, according to the Complainant. This sale property is zoned Central Core 3 (C-COR3), but the uses in this zoning category are similar to the uses available to on the subject (zoned I-G). The Complainant agreed that a time adjustment is appropriate, and that this adjustment would likely reduce the market value, but did not provide any evidence related to a time adjustment. The Complainant also stated that the property sold with improvements which if adjusted, would further reduce the market value of this comparable sale, but did not provide any evidence to quantify such an adjustment. The Complainant presented this comparable sale as being very similar to the subject, but did not provide any details related to site characteristics to establish the comparability between the comparable sale and the subject property.
- [7] The Complainant presented a table apparently obtained from the City of Calgary Assessment Department showing the rates being applied to C-COR properties for the 2012 assessment (page 20, Exhibit C1). The Complainant argued that these rates are applied to all the properties fronting Macleod Trail, regardless of their zoning, so apply to the subject property. This table shows that the rate for C-COR land is \$60/SF for the first 20,000 SF, \$28 SF for the 20,001 to 135,000 SF increment, and \$8/SF for the area greater than 135,001 SF.
- [8] The Complainant argued that the sale of the 7212 Macleod Trail property (former McDonald's Restaurant) in 2009 at \$65/SF and the C-COR rates being used by the City in 2012 support a market value rate of \$60/SF for the subject property. The Complainant contended that this was the best sale to reflect the market value of the subject, and was more comparable than the sales presented by the Respondent in its evidence.

Respondent's Evidence

- [9] The Respondent began his presentation by stating that the assessment is not correct, as the +5% influence for corner lot is not included in the \$3,240,000 assessment calculation. As this is an error made by the City, the Respondent is not asking that the assessment be increased to reflect this correction.
- [10] The Respondent stated that the City does both an income and bare land market value approach for properties located adjacent to Macleod Trail and other major corridors and takes the higher of the two values, as this reflects the price that an owner would expect at sale (maximizing value). In the subject case, the bare land value of the property is greater than the value indicated by the income approach. The City typically stratifies properties along Macleod Trail within their own assessment category, but because of a lack of sales, the City applied the C-COR rates to the Macleod Trail assessment groups in the 2011 assessment. In 2012, the City had a few sales that justified returning to a separate assessment category for properties along major traffic arteries, including Macleod Trail, a portion of 16th Avenue North, and a portion of Centre Street. Based on an analysis of the sales, the City developed a rate of \$100/SF for the first 20,000 SF of site area, \$60/SF for the 20,001 to 155,000 increment, and \$28/SF for the portion greater than 155,000 SF (page 14, Exhibit R1). These rates were applied to all properties that fronted onto Macleod Trail, regardless of the zoning of the property or the assessment zone, because there was not enough market data to support stratifying these rates any further.
- [11] The Respondent presented two sales to support its rate of \$100/SF (page 14-20, Exhibit R1). Both sales occurred on 16th Avenue N.E. and were zoned as C-COR1 at the time of sale. The 16,988 SF, 505-16th Avenue NE property sold in February 2010 for \$108.27/SF (time adjusted) and the 6,241 SF, 210-16th Avenue NE property sold in May 2011 for \$100.14/SF (no time adjustment required). According to the data presented to support this evidence, the 505-16th Avenue NE property apparently sold with a 1063 SF free-standing building constructed in 1973 and used as a restaurant prior to the sale. The Respondent stated that the building was demolished shortly after sale, therefore no contributory value was assigned to the improvements in considering the sale price.
- [12] A March 2012 sale of a 0.835 acre bare land parcel located at 6550 Macleod Trail SW was also presented by the Respondent (page 21-25, Exhibit R1). The Respondent acknowledged that this was a post-facto sale and not used by the City in its data to calculate the 2012 assessment. Nevertheless, because of very few sales along Macleod Trail, it is presented to support the City's rate of \$100/SF and to demonstrate that the assessment methodology is "on the right track". This sale occurred at a rate of \$117/SF for the entire 36,324± SF site.
- [13] While equity was not raised as an issue by the Complainant, the Respondent presented a table with three equity comparables (page 11, Exhibit R1) to demonstrate that the City applied its rates in a consistent fashion in assessment properties along Macleod Trail.

Rebuttal Evidence

- [14] No rebuttal evidence was disclosed and none was presented by the Complainant.

Conclusions of the Board in this Matter

- [15] In closing statements, the Complainant stated that the issue before the Board was simply whether the one sale on Macleod Trail (presented by the Complainant) was a better indication of market value than the two sales located on 16th Avenue NE (presented by the Respondent). The Complainant noted that the Respondent's two sales are not in the same quadrant as the subject. The Respondent's closing position is that sales evidence is presented to support the rates used in the 2012 assessment as derived using a mass appraisal approach, that the rates reflect the market value of the property, and the rates are applied in an equitable manner.
- [16] The Board acknowledges that there are few sales along Macleod Trail, which provides a challenge to both parties. The 2009 sale of the 7212 Macleod Trail SE property is a sale that may indicate market value of the subject, and is more comparable from at least a location perspective than the City's two sales on 16th Avenue NE. Therefore, the Board considered the evidence presented to determine which better reflects the market value of the subject and should be applied in the 2012 assessment.
- [17] Regarding the 7212 Macleod Trail SE sale in 2009, while the Board is of the opinion that this sale can be used in an analysis of market value, the Complainant failed to provide the Board with certain important details. Both parties agreed that some time adjustment is warranted to bring this 2009 sale price current to the valuation date (July 1, 2011) for the 2012 assessment period; no evidence was provided by the Complainant to quantify this time adjustment. The Complainant acknowledged that the property sold with improvements in place; the Complainant did not provide any evidence as to what adjustment should be made for the improvements. The Complainant did not provide much information on other characteristics of the sale property to establish comparability. The Complainant's evidence indicates that the sale price of this property is \$65/SF in 2009 but failed to indicate the adjusted price.
- [18] The Complainant also relied on the C-COR rates that were apparently provided by a City Assessor to support the requested \$60/SF rate used in calculating the requested assessment. The Board heard evidence from the Respondent as to the rates being applied for C-COR property, how the rates are applied and some background as to how they may have applied to properties fronting Macleod Trail in the past. The Board finds the Complainant's argument on this point (applicability of C-COR rates) does not have merit given the information provided by the Respondent.

- [19] The only relevant evidence presented by the Complainant is the 2009 sale of the 7212 Macleod Trail former McDonald's property. More evidence was needed to determine the current value for assessment purposes, relating to the appropriate adjustments to the 2009 sale price of the 7212 Macleod Trail property. The Board concludes that the Complainant failed in establishing that the market value of the subject is reflected by a rate of \$60/SF.

Board's Decision

- [20] For the reasons discussed above, the Board confirms the 2012 assessment of \$3,240,000.

DATED AT THE CITY OF CALGARY THIS 17 DAY OF October 2012.



Ivan Weleschuk
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
C1	Complainant's Disclosure
R1	Respondent's 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.*