

**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:**

***Reena Fabric Saree Centre Ltd.( as represented by Assessment Advisory Group Inc.)  
COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Board Chair, J. Zezulka  
Board Member 1, H. Ang  
Board Member 2, D. Julien***

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 2011 Assessment Roll as follows:

**ROLL NUMBER: 201107018**

**LOCATION ADDRESS: 533, 5075 Falconridge Bv. NE**

**HEARING NUMBER: 64809**

**ASSESSMENT: 848,500.00**

This complaint was heard on 31 day of August 2011 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Eight.

Appeared on behalf of the Complainant:

- T. Howell

Appeared on behalf of the Respondent:

- W. Wong

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

There were no procedural or jurisdictional matters to be dealt with.

**Property Description:**

The subject consists of a single unit in a multi-tenant retail condominium complex, located in the Westwinds community, in NE Calgary. The subject is an end unit, containing a net rentable area of 3,772 s.f. The parent land parcel is 0.85 acres. The complex was built circa 2004.

**Issues:**

The property is currently assessed using the direct sales comparison approach. The assessment calculates to \$225.00 per s.f. of rentable area.

A number of issues are outlined on the complaint form. The Complainant presented evidence to address the following;

*"The assessed value is incorrect, and fails to meet the legislated standard of market value and also fails to meet the requirements for equity in assessment."*

*"The assessed value is inequitable with comparable property assessments."*

There are no other issues.

**Complainant's Requested Value:** \$800,000, amended from \$546,000 on the evidence submission. The requested assessment calculates to \$145.00 per s.f. of rentable area.

**Evidence**

The Complainant submitted one equity comparable, at \$114.00 per s.f. The comparable is 27 per cent larger than the subject. For that reason, the Complainant increased the assessed rate by 27 per cent to arrive at the "proportional requested rate " for the subject. The Complainant also presented six equity comparables, all of which reflected assessments of \$225.00 per s.f. – equal to the City's assessed value. All of the comparables submitted are substantially smaller than the subject, and according to the Complainant, should reflect a higher per unit assessment due to the economies of scale. However, the Complainant failed to demonstrate any method or quantity of "size" adjustment that might be applicable.

The Respondent submitted 14 equity comparables, all from the same centre as the subject. Of the total, all except one reflected an assessment of \$225.00 per s.f. The majority are smaller than the subject, but the sampling demonstrated a consistency in per unit assessments, irrespective of size. The Respondent also submitted five sales comparables, all in the same centre as the subject. The average and median selling price was \$269 and \$260 per s.f respectively. Of the four comparables submitted, one is a multi-tenant building, and one is a post-facto transaction. The remaining three comparables are not ideal market evidence, but still tend to support the existing assessment.

### **Board's Decision**

The onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide convincing evidence to justify a change in the assessment.

In Manyluk v. Calgary (City), MGB Board Order 036/03, it states;

"Every opportunity is provided to both [parties to present evidence and arguments in support of their positions. The ultimate burden of proof or onus rests on the appellant, at an assessment appeal, to convince the MGB their arguments, facts and evidence are more credible than that of the Respondent."

In Kneehill (County) v. Alberta ( Municipal Affairs, Linear Assessor) (2004) Board Order MGB 001/04

" It is up to the parties who file a complaint on an assessment to put sufficient energy into proving that their allegations are well founded. In other words, the onus is upon the complaining party to provide sufficient evidence in order to prove their case."

Finally, in Shirley-Anne Ruben et al v. City of Calgary MGB 239/00 at page 15

"Furthermore, just as the onus is on the Appellants to provide prima fascia proof that any particular assessment may be incorrect or inequitable, the Appellants have the initial burden of proving that the Respondent erred in the methodology adopted or implemented in connection with the assessments."

It is the opinion of this Board that a single comparable simply does not constitute convincing evidence. Moreover, the Complainant failed to adequately discredit the Respondent's evidence so as to cast doubt on its validity. In the Board's opinion, the Complainant did not meet the onus required to convince the Board that a change in the assessment is required or justified.

The assessment is confirmed.

**DATED AT THE CITY OF CALGARY THIS 13<sup>th</sup> DAY OF SEPTEMBER, 2011.**



**Jerry Zezulka**  
**Presiding Officer**

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

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1. C1 Complainant Submission of Evidence,
  2. R1 City of Calgary Assessment Brief

*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**

<i>Decision No. 1499/2011 - P</i>			<i>Roll No. 201107018</i>	
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB 2052	Retail condominium	Stand alone	Sales approach	Land and improvement comparables; Equity comparables