

**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:

**Aristo Resources Ltd.
(as represented by Advantage Valuation Group), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Fleming, PRESIDING OFFICER
S. Rourke, MEMBER
D. Morice, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	080028400
LOCATION ADDRESS:	1804 13 St. SW
HEARING NUMBER:	62160
ASSESSMENT:	\$1,510,000

This complaint was heard on 4th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *N. Laird, B. McFarland*

Appeared on behalf of the Respondent:

- *E. Currie*

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

At the commencement of the hearing, Ms. McFarland indicated that she wished to raise an objection over the composition of the Board. She highlighted that she was not concerned about any of the panel members in this complaint but rather her objection was a systemic objection based on the composition of the Assessment Review Board in general and this related back to the change in the procedures implemented for assessment appeals since 2010. When questioned, she indicated that she had not "won" many appeals under the new system, and so had concluded there must be some form of systemic bias against her.

The Presiding Officer asked what she wished this CARB to do, and she indicated that she was prepared to proceed with the merit hearing, but had just wanted her objection noted for the record.

In addition, the City raised some concerns about the Complainant's rebuttal noting that in their opinion it was not proper rebuttal. The CARB pointed out that while there may be some issues, the nature of the Respondent's disclosure which did not adequately set out the basis of assessment and the principles of natural justice would argue for a liberal interpretation of Rebuttal, and the CARB was prepared to take that liberal position to allow the Rebuttal.

There were no other procedural or jurisdictional matters raised by either party.

Property Description:

The property is a 9 unit apartment building located in Lower Mt. Royal, and was built circa 1954. During the past two years there has been debate/discussion with the City over whether there are 2 One Bedrooms or 6 One Bedrooms and conversely 6 Two Bedrooms or 2 Two Bedrooms. There is agreement that there is 1 Bachelor suite. The property is in Market Zone 2 and has a Land Use Designation as Multi-Residential – Contextual Medium Profile. The property was valued on the Highest & Best Use (Land Value Only).

Issues:

The Complaint Form raised a number of issues, but in discussion with the Complainant the following were determined to be the unresolved areas.

Should the Subject be valued on Income or Highest and Best Use (Land Value Only)?

If the property is to be valued on the Income basis, are the suite mix and GIM accurate for the property?

If the property is to be valued on the Highest and Best Use (Land Value Only) should the topography of the site be recognized and accommodated in the valuation?

Complainant's Requested Value:

\$1,120,000

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

The subject property should be valued for this year (2011) on the Income Approach using the GIM.

In the absence of data, the suite mix is as noted on the City Multi-Residential Detail Report. There was no compelling evidence to merit a change to the GIM.

Board's Decision:

The complaint is allowed in part, and the assessment is reduced to \$1,170,000.

Reasons:

The Complainant highlighted a number of issues, but primarily was concerned that all of the information provided by the Respondent up to and including August 22, 2011 (Ex. C1 pg 7 of 9) had indicated that the assessment was based on the income including the Multi-Residential Detail Report. The Complainant indicated that none of the information provided by the City in response to their requests (for which they had to pay) would lead one to suspect that the subject had been valued on the land value basis.

They further indicated that the property had 6 One Bedrooms and 2 Two Bedrooms, and they requested that the income value based on the City's inputs would yield an assessment of \$1,080,000.

In their rebuttal, the Complainant indicated that the GIM method represented the best method for valuing the subject, because the sloping topography of the site limits the usability of the site and no adjustments had been made for the topography in the land only valuation. They indicated that a City wide topography adjustment of minus 30% would reduce the land only value to the exact same value as the Complainant was requesting calculated on the GIM basis. They also noted that there were two pieces of land across the street from the subject that had not experienced a land only valuation.

The Respondent apologized for the state of the documentation, explaining that this was the first year that apartments had been subject to the Highest & Best Use alternative valuation, and the paperwork presentation had not caught up with the practice yet. Nevertheless, the Respondent said that the City had discussions with the owner in February 2011 and had advised him of the change in the method of valuation. Furthermore, they noted that the Detail Report made note of an Adjustment Factor HBU.LO (Highest & Best Use. Land Only), and this should have further keyed the owner or his agent as to the change in the method of valuation.

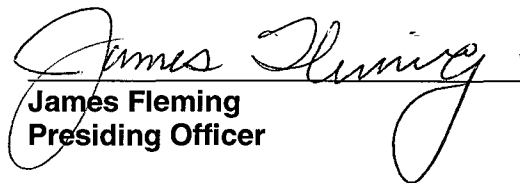
The CARB considered all the evidence and argument. The CARB has concerns as to whether the owner did, or at least had an obligation to, inform his agent of the change in the method of valuation. In any event, the representation by the Agents was that they were not aware of the change in the method of valuation. Based on the evidence presented by the Complainants, evidence which was largely supplied to them by the City, it is reasonable that they would not necessarily be aware of the change, although there were clues; the HBU.LO designation under Adjustment Factor, and the fact that the value produced on the Multi-Res Detail Report did not "jive" with the simple arithmetic income calculation/valuation under the GIM method. Nevertheless, the CARB is prepared to recognize that the City did not meet its standard to

properly disclose all the relevant facts behind the valuation in accordance with the Municipal Government Act RSA 2000 Chapter M-26 Section 299 (1.1) (b), although most certainly, this was an accident on the City's part, based on the changes to the basis of valuation.

Accordingly, the CARB is prepared to continue the Income valuation for the current year. The CARB concludes that this adequately recognizes the City's information shortfall, and also allows the property owner the time necessary to explore the topography issue with the City. Although the CARB was not required to deal with that issue in this hearing, they considered that a great deal of further evidence would be required before this argument would succeed. Insofar as the actual valuation, the most recent evidence as far as suite mix is the 2011 Multi-Res Detail Report from the City (Ex. C1 pg 9), and applying the stated income inputs results in a truncated assessment value of \$1,170,000 as noted above.

Although not germane to the decision, the Complainant noted the two properties on the same street that were not assessed based on land value only. Section 11 of the Matters Relating to Assessment and Taxation AR 220/2004 sets out that land with a residence (which both these properties are) shall be assessed as a residence.

DATED AT THE CITY OF CALGARY THIS 31 DAY OF OCTOBER 2011.


James Fleming
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant's Rebuttal
3. R1	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.*