

**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:**

***BSL Property Group Inc. (as represented by Altus Group), COMPLAINANT***

**and**

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

**before:**

***W. Kipp, PRESIDING OFFICER  
R. Cochrane, MEMBER  
D. Steele, 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:

<b>ROLL NUMBER:</b>	<b>124 193 608</b>
<b>LOCATION ADDRESS:</b>	<b>9615 Macleod Trail SW, Calgary AB</b>
<b>HEARING NUMBER:</b>	<b>63874</b>
<b>ASSESSMENT:</b>	<b>\$4,180,000</b>

This complaint was heard on the 13<sup>th</sup> day of October, 2011 at the office of the Assessment Review Board located at Floor No. 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *K. Fong (Altus Group)*

Appeared on behalf of the Respondent:

- *J. Greer (Assessment Business Unit)*

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

There were no procedural or jurisdictional matters to be decided.

**Property Description:**

The property that is the subject of this complaint is a freestanding restaurant property, occupied by Ranchman's Cookhouse and Dancehall, a restaurant and bar operation that has operated from this location for many years. It is located on the west side of Macleod Trail between Heritage Drive and Southland Drive. The property comprises a 16,281 square foot one storey building on a 2.74 acre lot. The building, constructed in 1972 is classed as a Class B retail building for assessment purposes.

The 2011 assessment of \$4,180,000 was prepared using the income approach.  
The assessment is \$256.74 per square foot of building area.

**Issues:**

The Assessment Review Board Complaint form filed March 7, 2011 had check marks beside No. 3 (Assessment amount) and No. 4 (Assessment class) in Section 4 (Complaint Information). For Section 5 (Reason(s) for Complaint), there was an attachment outlining 11 Grounds for Appeal.

At the hearing, the Complainant brought forward one issue:  
*What rental rates are applicable to the property?*

**Complainant's Requested Value:** \$1,910,000 or \$2,580,000

**Party Positions on the Issues:**

**Complainant's Position:**

The Complainant argues that the rental rates used in the income approach should be reduced. The assessment applies a net rental rate of \$26.00 per square foot to restaurant space, \$8.00

per square foot to basement space and \$2.00 per square foot to storage space. The Complainant requests that the restaurant rate be reduced to \$12.00 per square foot and that the entire basement be set at a \$3.00 per square foot rate.

Rental information for 16 leases in properties in the vicinity of the subject is set out in a table in Complainant's evidence. Rent rates range from \$11.00 to \$18.00 with the median and mean averages at \$11.90 per square foot and the weighted mean at \$11.46. If a rate of \$12.00 per square foot is applied to the subject restaurant space and \$3.00 to the basement area, the recalculated assessment is \$1,910,000.

An alternative request relates to assessed rent rates in other nearby properties. The commercial rental unit (CRU) rent rate for spaces between 6,000 and 14,000 square feet is \$16.00. A table of data provided by the Respondent at other CARB hearings supports the \$16.00 rate. If the restaurant space is assessed using a \$16.00 rate and the basement and storage rates remain as in the assessment, the recalculated assessment is \$2,580,000.

No evidence was provided to support the \$3.00 per square foot basement space rent rate.

Rebuttal argument focussed on the lease data from the Respondent. It was argued that comparables were not similar because they were smaller or newer than the subject. Further, the 2007-2008 comparable leases are too old to support a valuation as at July 1, 2010.

#### **Respondent's Position:**

The Respondent argues that the rent information provided by the Complainant is from properties that are not comparable to the subject. Firstly, the subject is a freestanding restaurant building. The comparables offered by the Complainant are for rental areas within shopping centres. Secondly, the subject is a restaurant and none of the Complainant's comparables are restaurants.

A list of data for 13 restaurant property assessments in southeast and southwest locations shows that all are assessed using a \$26.00 per square foot rental rate. These restaurants range in area from 2,168 to 16,281 square feet.

Four restaurant lease comparables show rental rates from \$18.18 to \$38.25 per square foot with the average being \$27.86. Floor areas range from 1,056 to 8,244 square feet. These leases have starting dates in 2007 and 2008.

With regard to the \$8.00 rent rate applied to some basement space, the Respondent argues that the space is used as offices for the restaurant business and \$8.00 is the typical rate applied to space of that type.


#### **Board's Decision:**

The 2011 assessment is confirmed at \$4,180,000.

**Reasons for the Decision:**

The Complainant provided market and assessment rent rate data on several properties in proximity to the subject however the data related to retail spaces in shopping centres. The subject property is a freestanding restaurant and bar. The Board finds that some of the Respondent's rent rate evidence may not be truly comparable to the subject but the Complainant's evidence is not at all similar. For that reason, the Board finds that there is no compelling evidence to support any change in the assessment.

DATED AT THE CITY OF CALGARY THIS 14<sup>th</sup> DAY OF November 2011.

  
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W. Kipp  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. 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.*

*For Administrative Use:*

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Retail	Stand alone	Income Approach	Rent Rate
	Other	Specialty property		