

**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:

1325963 Alberta Ltd. As represented by Chris Zaharko , COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***W. GAGNON, PRESIDING OFFICER
J. MASSEY, MEMBER (designated but did not sit)
J.KERRISON, 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:	066101304
LOCATION ADDRESS:	1626 – 12TH AVENUE S.W. CALGARY, ALBERTA
HEARING NUMBER:	60907
ASSESSMENT:	\$1,470,000

This complaint was heard on 11th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Board Room #10.

Appeared on behalf of the Complainant:

- **1325963 ALBERTA LTD., represented by CHRIS ZAHARKO**

Appeared on behalf of the Respondent:

- **Ms. Yang Wang on behalf of the City of Calgary**

Preliminary Issue:

The Board on its own motion sat as a panel of two consisting of W. Gagnon and J. Kerrison. The third member, J. Massey declared a potential conflict of interest by virtue of prior professional association with the Complainant.

The parties accepted the panel as constituted and asked that the hearing proceed.

Property Description:

The subject property is a low-rise multi-residential apartment-style building located in the community of Sunalta at 1626 – 12th Avenue S.W., Calgary, Alberta. The property is a wood frame structure of average quality. It was constructed at some time between 1974 (according to City records) and 1977 (according to the owner) and contains a mixture of 11 suites in all, consisting of eight one- bedroom and three two- bedroom units. Little, if anything, turns on the year of construction.

The Complainant argued that the neighbourhood in which the subject property was located was in a state of 'transition' or redevelopment, where existing properties were in 'disarray', and presumably where property values were lower than comparable properties in better neighbourhoods.

Issues:

The assessment for the subject property was prepared on the basis of the Gross Income Modifier (GIM) approach to value which the City of Calgary typically applies to multi-residential apartment-style buildings which are not subdivided into condominiums. The Complainant did not object to the application of the GIM in determining value as a general approach, but insisted that the resulting value did not accurately reflect the value of the subject property in the assessment year in question. The Complainant said that a direct income approach was inappropriate as well. The Complainant proposed instead that the direct sales approach better reflected the value of the subject property and presented evidence of five properties he said appeared similar but which were of higher quality than the subject yet resulted in a lower "price-per-door" assessment than was applied to the subject property. Accordingly, the Complainant urged the Board to conclude that "price-per-door" assessment of the subject property was too high.

The issue for the Board to determine is whether the GIM approach to value is appropriate in respect to valuation of the subject property. If the GIM approach is not appropriate, the issue for the Board to determine is whether evidence pertaining to the direct sales comparable approach provides a better indicator of value for the subject property.

The Evidence:

The evidence provided by the Complainant was brief and summarized on a single page. Four of the five comparables presented as evidence by the Complainant were either condominium-titled properties, post facto or foreclosure/forced sales. Only one comparable was located in the subject community of Sunalta and while it was geographically closer to the subject property than the other comparables presented by the Complainant, it was the product of a court-ordered sale which occurred in March 2011 which was well past the assessment date of July 1, 2010 and which did not even occur in that year. A more detailed review of the Complainant's evidence is outlined below.

The Respondent applied the GIM approach to value in coming to an assessment of \$1,470,000 but did not provide additional detailed support for the GIM approach because she says the Complainant had not questioned or taken issue with any aspect of the approach taken. Therefore, in rebuttal to the Complainant's evidence, the Respondent provided more detailed evidence of the properties which the Complainant relied upon.

The Board was left with two competing approaches to value with limited evidence in support of either one. In support of the GIM approach, the Board was left simply with the calculations on which the assessment was developed without any evidence as to how the precise GIM was derived. In support of the direct sales comparison approach, the Board was given contradictory evidence of properties that may or may not be comparable because of their location or proximity to one another, and which may or may not be proper to consider for assessment purposes because of date and circumstances of sale.

The Complainant adopted a "price-per-door" approach to comparing other properties. Under the current assessment, the Complainant said that the assessment or "price-per-door" was approximately \$133,636. The Complainant urged the panel to accept that the evidence demonstrates that a more accurate price based on comparable properties would be \$110,000 per door.

The Complainant argued that comparable buildings of superior construction in superior neighbourhoods in Calgary were fetching a "price-per-door" in excess of the "assessment-per-door" value of the subject premises. He did not provide detailed evidence of sales in the same community, or in any other community which the Complainant viewed as similar, or comparable.

The Respondent argued against the "price-per-door" approach taken by the Complainant because it was too simplistic because it ignored the suite mix and other characteristics of the subject property. She argued that the subject property had a preponderance of two-bedroom units, which should skew upward the "price-per-door" value.

Complainant's Requested Value: \$1,110,000

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

The Complainant provided evidence of five properties that he considered comparable to the subject. The first was at 1401-1st Street N.W., a single-title (non-condo) apartment-style structure located in the community of Crescent Heights. The Complainant said that this property sold in February, 2010 for \$108,333.33 per door, practically all of which are one-bedroom apartments. In rebuttal, the Respondent noted that this property was under-assessed with an assessment-to-sales ratio of only 0.80. In addition, she viewed this property as having "no similarity at all" to the subject because it was in an entirely different market zone. No evidence was presented to the panel by either party as to whether value is enhanced for properties located in the community of Crescent Heights versus Sunalta

The Board finds that while this comparable appears to have a similar suite mix, it is not in the same market area and within sufficient proximity to the subject property to be of substantial evidentiary value. Accordingly, the Board gives little weight to this evidence.

The second comparable provided by the Complainant was located in the community of Parkhill at 3624 Ertton Court S.W. Calgary, Alberta. The Complainant indicated that the date of sale was June 14, 2010, while the Respondent's evidence reflected that the sale occurred on July 29, 2010, nearly a month following the assessment date of July 1, 2010. The Board finds that it would not exclude this evidence based on the date of sale alone, because it occurred either before or shortly after the assessment date, and in any event within the assessment year. The property is, however, not in the same market zone and a considerable distance from the subject property. The Board finds that this comparable is not in sufficient proximity to the subject property to be of substantial evidentiary value, and therefore grants it minimal weight.

The third and fourth comparables provided by the Complainant are condominium complexes located in the community of Shagnappi respectively at 1740 and 1744- 28th Street S.W., Calgary. The Complainant says that these structures are of superior concrete block construction and should therefore represent a higher assessment per door, but that they achieve on average sales value of only \$115,454 and \$113,666 per door respectively. Moreover, the Complainant says that these units should have a higher value than the subject units simply because they are condo-titled, yet they have a lower "price-per-door" value. In rebuttal, the Board notes that the City of Calgary simply does not assess condominiums in the same manner as apartment-style multi-residential buildings such as the subject. The City assesses condos based on direct sales comparisons, and not the GIM approach to value. It is not useful therefore to compare assessment data for these properties.

To the extent that sales data of these two condominium complexes are of any assistance in determining the value of a single-title, apartment-styled structure such as the subject property, the City presented detailed sales data in respect of the condo property at 1740 – 28th Street indicating as follows:

Unit Number	bedrooms	List	Sale	Sale Date
#1	1 bedroom	\$116,000	\$110,000	02/17/10
#2	1 bedroom	\$119,000	\$115,000	09/08/10
#2	1 bedroom	\$159,000	\$110,000	02/17/10
#4	1 bedroom	\$117,000	\$115,000	02/17/10

#5	1 bedroom	\$115,000	\$115,500	02/17/10
#5	1 bedroom	\$257,000	no sale	
#5	1 bedroom	\$257,900	no sale	
#6	1 bedroom	\$123,000	\$115,000	02/17/10
#7	1 bedroom	\$113,000	\$115,000	02/17/10
#9	1 bedroom	\$110,000	\$115,000	02/17/10
#10	1 bedroom	\$115,000	\$115,500	02/17/10
#11	1 bedroom	\$115,000	\$110,000	02/17/10

The City provided the following detailed sales data with respect to the condominium property located at 1744 – 28th Street S.W.:

Unit Number	bedrooms	List	Sale	Sale Date
#2	1 bedroom	\$115,000	\$110,000	02/17/10
#3	1 bedroom	\$115,000	\$110,000	02/17/10
#4	1 bedroom	\$153,000	\$125,000	02/17/10
#7	1 bedroom	\$115,000	\$115,000	02/17/10
#10	1 bedroom	\$117,000	\$115,000	02/17/10
#11	1 bedroom	\$148,000	\$125,000	02/17/10

The Complainant says that condo titled units ought to fetch a higher price per door than an apartment, but provided no evidence for that proposition. The City accepted the proposition that all things being equal, condo-titled units might reflect a higher "price-per-door" value than an apartment. Based on the evidence, however, it is clear that the units being compared are of different kinds of construction and quality and not within the same market areas. In all, these comparables are not sufficiently similar to be used to indicate the value of the subject property.

The Board finds that a "price-per-door" calculation is simply a rough measure of value. Without more, this approach ignores individual characteristics of the different properties. In this particular case, the Board is reluctant to rely solely on the sales evidence provided for these 'condo-titled' properties. The sale evidence may not be reliable because of the large number of sales which were completed on the same day. If they were sold to the same party or part of a larger deal, there may have been a discount or a premium applied to the sale price that would affect the "price-per-door" calculation. In the absence of more detailed evidence, the Board is reluctant to speculate. The fact is that these buildings and the condo units within them are not located in the same market area nor in the same community as the subject property. Finally, there is no direct evidence that the concrete construction would add value to them,

The fifth and final property is at 2005 11th Avenue S.W., which in common with the subject property is located in the community of Sunalta, but which was the product of a court-ordered sale which occurred on either on January 13, 2011 as suggested by the Complainant or on March 3, 2011 as suggested by the Respondent. While this property is perhaps the best comparable to the subject, the Board cannot accept it as evidence in this matter because the sale occurred post facto the assessment date, and did not occur within the year in which the assessment must be based. At best, the Board will accept this evidence only as corroboration of value indicated by better evidence. In the absence of such evidence, the Board must ignore evidence with respect to this comparable property.

Board's Decision:

The use of the GIM approach to value is a legitimate method of valuation. Its methodology has not been questioned or impugned in any way by the Complainant. The Complainant is free to prove that an alternative valuation method would be more appropriate in this particular case. However, the onus is on the Complainant to show with proper evidence that the assessment is in error, and the Board is of the opinion that the Complainant failed to discharge this onus because the evidence in support of an alternative approach simply was not strong enough.

Based on the findings and the foregoing reasons the Board confirms the assessment and sets the assessment for the 2011 taxation year at \$1,470,000

DATED AT THE CITY OF CALGARY THIS 17th DAY OF November 2011.


W. Gagnon
Presiding Officer

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

NO.	ITEM
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.*