

**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:

***Canada Safeway Ltd.
(as represented by Altus Group Ltd), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
D. Julien, MEMBER
P. Charuk, 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:	046058301
LOCATION ADDRESS:	134 17 AV NE
HEARING NUMBER:	63799
ASSESSMENT:	\$559,000

This complaint was heard on 11 day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Mr. K. Fong* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *Mr. B. Brocklebank* *Assessor, City of Calgary*

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

There were no procedural or jurisdictional matters raised by the parties during the hearing.

Property Description:

The subject property is a 1,998 sq. ft. building located on a 0.07 acre site in Tuxedo Park. It was constructed in 1912. It was formerly a house which was converted into commercial use (retail). The land use designation is Direct Control District.

Issues:

1. The subject property is an old house conversion which should be assessed as land only.

Complainant's Requested Values: \$203,000 or \$281,000

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

1. The subject property is an old house conversion which should be assessed as land only.

The Complainant submitted the subject property is an old house conversion that was purchased by Safeway in 2008 to be used as a parking lot for its staff. The property was formerly used as a barber shop on the main level and residential on the upper level. He indicated that Safeway purchased the property for \$875,000 but it was a motivated purchaser and therefore the Board should place less weight on the sale. The Complainant argued this property has very limited development potential (lot size is 25 x 125 sq. ft.) and the building has been left vacant since 2008 when Safeway purchased the property as part of its expansion plans. He also indicated it is a land locked piece of land. He argued the only intended purpose for this property is to use it as a parking lot.

The Complainant submitted the subject property is assessed too high at \$178.94 psf. He indicated it is assessed higher than sales of superior land parcel in the Beltline (\$165.00 - \$195.00 psf). He advanced two requested values for the property: \$203,000 based on equity (\$65.00 psf) and \$281,000 based on market value (\$90.00 psf). The Complainant submitted a chart entitled *Market Sales and Equity Comparables* (Exhibit C1 page 22). He presented seven properties which sold in June 2009 – March 2011. The properties have site areas of 5,623 - 47,236 sq. ft. and had sold for \$59.74 - \$120.50 psf (median \$89.78 psf). They were assessed

for \$51.00 - \$72.00 psf. He also included four equity comparables with site areas of 4,684 – 5,729 sq. ft. which were assessed for \$64.90 - \$103.51 psf. Based on all of these properties, he derived a median assessed rate of \$56.87 psf.

The Respondent submitted 220 - 230 sales have been analyzed for the 2011 assessments. House conversions have been modelled based on 13 house conversion sales. He argued, although vacant, the subject property could still be used as a business. He also noted that until the City is advised otherwise, it will remain assessed as a house conversion. The Respondent submitted the RealNet Transaction for the subject property at \$875,000 (or \$547 psf) in July 2008 (Exhibit R1 pages 15 & 16). He also submitted the Assessment Request for Information dated March 24, 2010, which indicated it is owner occupied (Exhibit R1 pages 21 - 23).

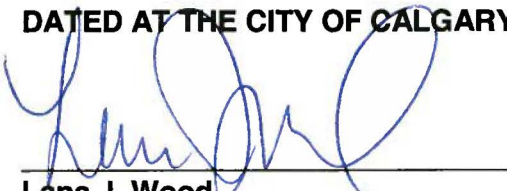
The Respondent submitted 4 sales comparables of house conversions that had sold for \$460,000 – \$894,000 in July 2008 – October 2009. The houses were constructed in 1900 – 1952; have land areas between 3,122 – 6,247 sq. ft.; and above grade areas of 860 - 1092 sq. ft. (Exhibit R1 page 26). The Respondent also submitted four equity comparables of house conversions in Tuxedo Park that were assessed for \$499,500 - \$713,000 (\$391 - \$999 psf). These houses were built in 1945 – 1948; have land areas of 5,245 – 6,534 sq. ft.; and above grade areas of 860 - 1682 sq. ft. He argued based on land size and area above grade, the subject property is similar to these equity comparables.

The Board struggled with the lack of evidence from both parties in this instance. The Complainant produced a mix of sales and equity comparables but no evidence to support the requested assessment. The Respondent stated the subject property was assessed as a house conversion of which 13 sales were analyzed for the model; yet, he did not provide any evidence of that analysis or any evidence to show how the assessment for the subject property was derived. The Board appreciates that the Complainant was not arguing the split in the mill rate for the subject property. However the assessor indicated that a split in the mill rate is warranted (50% residential: 50% commercial), but that change would not be implemented until 2012. The Board cannot understand if this correction is warranted, why the assessor would defer the correction until next year. Nevertheless, since the Complainant did not meet onus to prove the assessment was incorrect, the Board reluctantly confirms the assessment.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment for the subject property at \$559,000.

DATED AT THE CITY OF CALGARY THIS 15 DAY OF DECEMBER 2011.



Lana J. Wood
Presiding Officer

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

EXHIBIT NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission

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

SUBJECT	PROPERTY TYPE	PROPERTY SUB - TYPE	ISSUE	SUB - ISSUE
CARB	Other Property Types	Specialty Property	Sales Approach	Land & Improvement Comparables