

**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:

Marblehead Equities Inc. (as represented by Colliers International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, W. Garten
Board Member, P. Pask
Board Member, D. Morice***

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: 057114407

LOCATION ADDRESS: 323 5th Avenue N.E.

HEARING NUMBER: 64572

ASSESSMENT: \$2,050,000

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, Boardroom 11.

Appeared on behalf of the Complainant:

- *M. Uhryn, Colliers International*

Appeared on behalf of the Respondent:

- S. Poon, City of Calgary

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

The Board derives its authority to make this decision under Part 11 of the Alberta Municipal Government Act.

There were no procedural or jurisdictional matters brought before the Board.

The Board proceeded to hear the complaint, as outlined below.

Property Description:

The Subject Property is located in the community of Crescent Heights within the City of Calgary market area 3 in the North East quadrant of the City. The improved parcel has an aggregate area of approximately 10,488 S.F. The Parcel is improved with a 3.5 storey multi-residential walk-up apartment. The subject was constructed in 1971 and consists of 7 one bedroom suites and 8 two bedroom suites.

Issues:

The issue under appeal is the Market Value of the site calculated by using a Gross Income Multiplier (GIM) method. Is the assessed GIM of 14.0 fair and equitable?

Legislation:***The Municipal Government Act, R.S.A. 2000, c. M-26 (MGA);***

s. 1 (n) *"market value" means the amount that a property, as defined in section 284(1)(r) might be expected to realize if it is sold on the open market by a willing seller to a willing buyer.*

s. 284 (1)(r) *"property means"*

- i) a parcel of land,*
- ii) an improvement, or*
- iii) a parcel of land and the improvement to it;*

s. 293(1) *In preparing and assessment, the assessor must, in a fair and equitable manner,*

- (a) apply the valuation and other standards set out in the regulations, and*
- (b) follow the procedures set out in the regulations.*

s.293(2) *If there is no procedure set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.*

s. 467(1) *An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.*

s. 467 (3) *An assessment review board must not alter any assessment that is fair and equitable, taking into consideration*

- a) the valuation and other standards set out in the regulations,*
- b) the procedures set out in the regulations, and*
- c) the assessments of similar property or businesses in the same municipality.*

Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004 (MRAT);

s. 2 *An assessment of property based on market value*

- a) must be prepared using mass appraisal*
- b) must be an estimate of value of the fee simple estate in the property, and*
- c) must reflect typical market conditions for properties similar to that property*

s. 4(1)(a) *The valuation standard for a parcel of land is market value*

s. 5(1) *The valuation standard for improvements is*

- a) the valuation standard set out in section 7, 8 or 9, for the improvements referred to in those sections, or*
- b) for other improvements, market value*

s. 6(1) *When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvement is market value unless subsection (2) or (3) applies.*

Complainant's Requested Value: \$1,670,000 (rounded) based on a Gross Income Multiplier of 11.45.

Complainant's Position:

The Complainant provided evidence package C-1 (85 pages) for its presentation. The Complainant argued that the Gross Income Multiplier (GIM) used by the City of Calgary for the 2011 property assessment is excessive. The City of Calgary used 14.0 as the GIM based on typical rents and a 4.5% vacancy allowance.

The complainant brought forward the following evidence in support of his argument.

- The current assessment of \$2,050,000 equates to \$136,909 per suite.
- The Complainant brought forward evidence of 12 valid comparable sales over a period of 18 months. These sales were throughout the City of Calgary and indicate a median GIM of 11.7 with an Assessment to Sales Ratio (ASR) of 0.96 (C-1 pg 18).
- Of the above 12 sales, 3 were valid comparable sales within district 3. These sales have

an indicated median GIM of 11.45 with an ASR of 0.96 (C-1 pg 19).

- The Complainant further provided evidence to support these sales from "RealNet" printouts (C-1 pg 28-72).
- Evidence in "RealNet" provided the details of one of the comparables sold to the City of Calgary (Calgary Homeless Foundation) (C-1 pg 52-54) 208-8A Street N.E. The Complainant argued that this sale proves the value of the subject.
- The Complainant provided evidence of the City of Calgary Assessment Summary Reports for all comparables (C-1 pg 73-84).
- The Complainant argued that the Burden of Proof has been met with the evidence provided and the GIM should be lowered to 11.45.

Upon questioning, the Complainant clarified the following points:

- There were no actual rent rolls provided with the C-1 package.
- No other financial information was included in the "RealNet" evidence to back up the GIM claim.

Respondent's Position:

The Respondent provided evidence package R-1 for her presentation. The Respondent further provided a correction to page 51 of R-1 which was identified as R-2. This was admissible as evidence as there was no objection made by the Complainant.

The Respondent argued that the City of Calgary assessment of \$2,050,000 was fair and equitable using a GIM of 14.0.

The Respondent brought forward the following evidence to support her argument.

- The Respondent argued that the Complainant only wants to argue one component of the assessment calculation which is the GIM. Rents and vacancy have been excluded from his argument.
- The Respondent argued that the Complainant has used an incorrect rental rate to calculate the GIM. The rental rate should be typical rental rate.
- The Respondent brought forward evidence of 11 valid comparable/time-adjusted sales throughout the City of Calgary completed over a period of approximately 18 months. These sales indicate an average GIM of 13.48 (R-1 pg 50). Evidence included typical rents, typical vacancy, selling price and typical GIM in the year of sale.
- Of these 11 sales, 5 valid comparable sales were considered closest in comparison to the subject property in the Market Zone 3. These 5 included the 3 comparables provided in the Complainants evidence package. The average GIM of these 5 has been calculated to be 13.99 with a median GIM of 14.01. Average selling price per suite is \$119,583 with a mean selling price of \$104,167. The ASR average is 0.99 and median is 0.95 (R-2 pg 51).
- The Respondent further provided evidence of these sales from "RealNet" (R-1 pg 53-63).
- The Respondent provided equity comparables (R-1 pg 64) as evidence of a GIM of 14.0 used for 4 other additional comparable assessments in market area 3.
- The Respondent further provided CARB decision #1302/2011-P in the R-1 package as

evidence that a consistent method of calculations must be maintained.

Upon questioning, the Respondent clarified the following points:

- “RealNet” is based on predicted rents as there is no actual backup provided in the online service.
- Different vacancy rates have been used based on the different years that the sales have taken place (R-1 pg 50, R-2 pg 51).

Complainant Summary

In summary the Complainant argued the following additional points:

- The Complainant argued that typical rents were applied to the comparables on page 18 and 19 of C-1.
- Page 19 on C-1 demonstrates the best 3 sales comparables to the subject property
- The Complainant argued that the City of Calgary manipulated the rents lower on pg 51 of R-2 where the initial pg 51 of R-1 had a GIM median of 12.57.
- Further the sale at 234 4th Ave. should be eliminated from the calculation as it is an outlier with a selling price of \$180,000 per suite.

Respondent Summary

In summary the Respondent argued the following additional points:

- The Respondent argued that the Complainant only used 3 sales in the market area 3 instead of using all sales.
- In response to the Complainant accusation, the respondent explained that the rents come from the ARFI's from the owners and are not manipulated.
- The Respondent argued that the Complainant use of “RealNet” is a use of actual or estimated rents combined with actual vacancies however, the City of Calgary uses typical rents with typical vacancies to calculate the appropriate GIM.
- The Respondent argued that the Table on R-2 pg 51 supports a GIM of 14.0 and further supports a price per suite of \$137,000 when suite mix is taken into consideration.

Last Word by the Complainant

- The Complainant argued that \$137,000 per suite is excessive and the average selling price in Zone 3 is \$104,000 per suite.

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

- The GIM evidence provided by the Complainant (C-1 pg 18-19) did not provide income or vacancy verification in order to substantiate the calculation.
- The GIM calculation used in the “RealNet” evidence does not confirm typical rents. This

is required in order to compare the GIM calculation with the City of Calgary GIM used in the assessment.

- Equity was not argued in this hearing.

Board's Decision:

It is the Board's Decision confirm the assessment at \$2,050,000.

Reason(s) for Decision

The Board's reasons for this decision are as follows:

- The Board could not substantiate any evidence that typical rents were used in calculating the GIM of comparables in the Complainants evidence package.
- The Board found that no actual rent rolls were provided by the Complainant to justify his request.
- The Complainant did not provide actual vacancies. This would be required if the Complainant used actual rent rolls to confirm GIM calculations.
- The Board found that mixing Actual and Typical (rents and vacancies) have an effect of distorting the calculation of GIM. All actual rents/vacancies should be used or all typical rents/vacancies should be used for all comparison purposes.
- Of the 3 comparables used by the Complainant and 5 comparables used by the Respondent, the Board found that 330 2nd Ave. N.E. was the closest due to the suite mix. 1 bedroom suites represented 62% and 2 bedrooms suites represented 38% of the total as compared to the subject property at 47% 1 bedroom suites and 53% 2 bedroom suites. This property sold for \$137,500 per suite which is similar to the assessed value of the subject (\$136,909 per suite) with a GIM of 14.01.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF November 2011.



W. Garten
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. R2	Respondent's revised page 51

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.*