

**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:**

***Rudy J. Labuhn, John A. McNeill (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: 080105000**

**LOCATION ADDRESS: 536 20<sup>th</sup> Ave. S.W.**

**HEARING NUMBER: 61386**

**ASSESSMENT: \$1,410,000**

This complaint was heard on 14<sup>TH</sup> 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:

- *D. Porteous, Colliers International*

Appeared on behalf of the Respondent:

- J. Toogood, 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 beltline area within the City of Calgary market zone 2. This 10 suite 2.5 story walk-up apartment building has 4 one bedroom suites and 6 two bedroom suites. The subject was constructed in 1965.

**Issues:**

The issue under appeal is the Market Value of the multi-residential portion of the property 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:** \$1,140,000 based on a GIM of 11.30

**Complainant's Position:**

The Complainant provided evidence package C-1 (65 pages) for his 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 5.5% vacancy allowance.

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

- The Complainant provided a Colliers 2011 Low Rise Sale Price GIM Analysis chart of 9 valid comparable sales (C-1 pg 23).
- The Sales in this chart were sales throughout the City of Calgary. There were 5 sales in the southwest quadrant of the City of Calgary.
- Both charts display a median GIM of 11.3 based on the selling prices.
- Evidence in the form of "RealNet" and City of Calgary Assessment Summary Reports (C-1 pg 27-61) were provided to support the Colliers GIM analysis charts.
- The Complainant argued that the Burden of Proof has been met with the evidence provided and the GIM should be lowered to 11.30.

Upon questioning, the Complainant clarified the following points:

- GIM in each comparable was calculated by Colliers for GIM purposes.
- Actual rents were used at the time of sale.
- No rent rolls or actual vacancy rates were available
- It was confirmed that on C-1 pg. 51 that \$300,000 worth of chattels were included in this sale at 1032 Cameron Ave.

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

The Respondent provided evidence package R-1 (50 pages) for his presentation.

The Respondent argued that the City of Calgary assessment of \$1,410,000 is fair and equitable using a GIM of 14.0.

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

- The Respondent brought forward evidence of 3 valid sales in a chart in market zone 2 completed over a period of approximately 6 months. These sales indicate a median GIM of 14.86 (R-1 pg 26 & pg 34). Evidence included typical rents, typical vacancy, selling price and typical GIM in the year of sale.
- The Respondent further included a Collier's Low Rise Sale's Rebuttal providing evidence that 4 sales were outside of Area 2, 1 sale had 2 vendor take back mortgages and 1 where the vendor and purchaser were both located in Germany.
- The Respondent provided equity comparables (R-1 pg 30) as evidence of a GIM of 14.0 used for 4 additional comparable walk-up properties assessed in market zone 2.

Upon questioning, the Respondent clarified the following points:

- The different vacancies on R-1 pg. 26 are due to the different sales years as each year has a different typical vacancy.
- The German sale is considered invalid since it cannot be confirmed whether or not the sale was an arm's length sale.

### **Complainant Summary**

In summary the Complainant argued the following additional points:

- The Complainant argued the sales provided to the Board (C-1 pg 23 & 24) proves a GIM of 11.30 or \$132,000 per suite
- The Complainant argued that the 1032 Cameron sale is still a good representation of value since it is superior property to the subject.

### **Respondent Summary**

In summary the Respondent argued the following additional points:

- The Respondent argued that the GIM requested by the Complainant is not supported. There was no evidence of rent rolls or vacancy rates included in the disclosure documents.
- The Respondent argued that based on the comparable sales evidence and comparable assessment evidence before the board, this information supports the current assessment and GIM calculation used.

**Last Word by the Complainant**

- Colliers feels that the German sale should be considered a valid sale even though there was a foreign vendor and purchaser.

**Board's Decision:**


It is the Board's Decision to confirm the assessment at \$1,410,000.

**Reason(s) for Decision**

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

- The Board placed the most weight to the City of Calgary's – Colliers Low Rise Sale's Rebuttal (R-1 pg 34), since the information provided broke down reasons to reject the Complainant's comparable sales based on location in the City of Calgary and the potential non-arms length sales.
- The Board found that since rent rolls and vacancies were not included in the evidence package, the Board was unable to confirm the GIM calculations which supported the Complainant's request.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF October 2011.

  
**W. Garten**  
**Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
1. C-1	Complainant Disclosure
2. R-1	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.*