

**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:

The Governors of the University of Calgary (as represented by Linnell Taylor Assessment Strategies), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, PRESIDING OFFICER
R. Cochrane, MEMBER
R. Kodak, 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:	201 621 398
LOCATION ADDRESS:	2500 University Drive NW, Calgary AB
HEARING NUMBER:	60805
ASSESSMENT:	\$38,410,000

This complaint was heard on the 2nd day of November, 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:

- *J. David Sheridan (Linnell Taylor Assessment Strategies)*

Appeared on behalf of the Respondent:

- *Jarrett Young (Assessment Business Unit)*

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

File 60805 did not contain the Respondent Disclosure. That document had been filed on time but the file number under which it was transmitted was incorrect. The Complainant had received the document and had no objections to the Board having the City of Calgary Assessment Review Board (ARB) clerk print it from the file. Copies for Board members were printed and the hearing proceeded. There were no other procedural or jurisdictional matters to be decided by the Board.

Property Description:

The property that is the subject of this complaint is a new student housing building known as Yamnuska Hall which has been constructed on the University of Calgary campus. The six storey 3298 square metre building will provide furnished housing units for students at the university. As at the "condition date" of December 31, 2010, the building was 98% complete. No information was provided regarding the number of housing units.

The 2011 assessment was prepared by applying the 98% complete ratio to the building permit value of \$39,200,000. No value has been added for the land upon which the building is situated.

Issues:

The Assessment Review Board Complaint form, filed February 17, 2011 had a check mark beside box 3 (Assessment amount) in Section 4 (Complaint Information). An attachment to Section 5 (Reason(s) for Complaint) stated that 1) the property assessment is incorrect and 2) the property assessment is excessive.

At the hearing, the Complainant argued that consideration should be given to amending the assessment based on the atypical characteristics of the subject property.

The issue before the Board is "Should there be a departure from the December 31, 2010 date prescribed in Section 289(2)(a) to September 5, 2011 to reflect the date that students move into the units in the subject property?"

Complainant's Requested Value: \$26,900,000

Party Positions on the Issues:

Complainant's Position:

Assessments are typically generated on partially completed development projects by applying a percentage complete ratio to the building permit value. Percentage complete is measured as at the "characteristics and physical condition date" of December 31 of the year prior to the year in which a tax is imposed.

For typical multi-residential properties, a newly constructed building, once physically complete, could offer apartments to prospective tenants shortly thereafter. Physically complete or "Capable of being Occupied" appears to be the benchmark in this typical case since the time frame between physically complete and "full occupancy" can be minimal.

The subject building is atypical. It will provide student housing accommodation that is fully furnished. This is a key difference between a physical completion condition and the condition required by the assessed person (University of Calgary) before it can be ready for student occupancy.

Secondly, the summer break and eight month student year cannot be overlooked. This is an operational reality. Since the U of C must operate within this framework regardless of when a particular physical completion date is reached, they continue to be governed by the requirement to provide fully furnished units for the influx of students each September.

The Complainant sees an atypical basis for this assessed person that should be recognized by MGA 289(2)(a) and one that the assessor must consider. The Complainant proposes *a departure, in this case, to meet 289(2)(a) by acknowledging "capable of being occupied" must be September 5, 2011, the date that students move into fully furnished units at Yamnuska Hall, two factors that typical private rental apartment owners need have no concern with.* The calculations for this departure capture 100% of completeness spread over the actual 25.5 months from the date of foundation ground breaking (June 18, 2009) to the date the first students took up residency (September 5, 2011), some eight months later.

100% completion over 25.5 months equals 3.92% per month.

$3.92\% \times 8 \text{ months} = 31.36\%$

Percentage completion as at December 31, 2010: $100\% - 31.36\% = 68.64\%$

$68.64\% \times \$39,193,878 \text{ (Permit value)} = \$26,902,678$

Truncated to an assessed value of \$26,900,000.

Respondent's Position:

The Respondent explained the methodology applied in valuing incomplete buildings such as the subject. It was emphasized that the practice is applied consistently. In the subject instance, the 98% complete factor was obtained from the Complainant and following an inspection, the Respondent found that factor to be reasonable. Using this methodology, there is no land assessed to the subject property. Once the building is assessed as 100% complete, an amount will be added for land.

It was argued that it would be unfair to other apartment property owners if an exception was made for the U of C. Those other property owners compete for student tenants on the understanding that those tenants do not occupy apartments for a full 12 months each year. The U of C business model recognizes that as well. This housing does provide a profit to the U of C.

It was inconvenient that this building was complete at December 31, 2010 but U of C could not get it occupied until September 2011 when it instantly became 100% occupied.

In conclusion, the U of C should not be treated differently than other taxpayers. This is not a supplementary assessment so the rules for supplementary assessments do not apply. There is no provision in legislation to account for the extent of occupancy.

Legislation:

MUNICIPAL GOVERNMENT ACT RSA 2000 Chapter M-26

289(1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

and

(b) the valuation standard set out in the regulations for that property.

293(1) In preparing an 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.

326 In this Part,

(b) "student dormitory" means a housing unit

(i) that is used in connection with a purpose referred to in section 362(1)(c), (d) or (e) or with a college incorporated under a private Act of the Legislature, and

(ii) the residents of which are students of a facility used in connection with a purpose referred to in section 362(1)(c), (d) or (e) or with a college incorporated under a private Act of the Legislature, but does not include a single family residence and the land attributable to that residence;

362(1) The following are exempt from taxation under this Division:

(d) property, other than a student dormitory, used in connection with educational purposes and held by any of the following:

- (i) the board of governors of a university, technical institute or public college under the *Post-secondary Learning Act*;

ALBERTA REGULATION 220/2004
Municipal Government Act
MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION

Part 1

Standards of Assessment

Mass appraisal

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

Board's Decision:

The 2011 assessment is confirmed at \$38,410,000

Reasons for the Decision:

The Municipal Government Act (MGA) provides for municipal taxation of property such as the subject. There is no issue with the assessability of the building.

The Complainant is asking for this Board to alter the application of Section 289(2)(a) of the MGA by effectively changing the characteristics and condition date from December 31, 2010 to September 5, 2011 because the latter is the date that the building became occupied by students.

There is no provision in assessment and taxation legislation for the Board to make this exception by altering a date that is set out in the regulations. The building was 98% complete as at December 31, 2010 and it was assessed using standard, consistently applied methodology that recognized that condition.

DATED AT THE CITY OF CALGARY THIS 8 DAY OF November 2011.


W. Kipp
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. C2	Colour photo from Exhibit C1
4. C3	Enlarged, colour table from Exhibit C1

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:

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Institutional Residence	Approach	Improvement Calculation