

## **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

***Michelle Wing, Nathan Luu, Allan Leung  
(as represented by N. Luu), COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before

***L. Yakimchuk, PRESIDING OFFICER  
P. Charuk, BOARD MEMBER  
P. Pask, BOARD 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 2013 Assessment Roll as follows:

**ROLL NUMBER:** 056082001

**LOCATION ADDRESS:** 223 8A St NE

**FILE NUMBER:** 70205

**ASSESSMENT:** \$1,030,000

This complaint was heard September 4, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *N. Luu, Co-owner*

Appeared on behalf of the Respondent:

- *N. Domenie, City of Calgary Assessor*

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

[1] The Complainant, N. Luu, asked to submit various documents including a letter of appraisal from a bank and various rebuttal evidence at the time of the hearing. The Respondent, N. Domenie, stated that it would be unfair to include new evidence at this time because he would not be prepared to respond to it.

[2] The Board did not accept the new evidence because it did not meet with the Disclosure dates in the regulations, as indicated on the back of the Assessment Review Board Complaint Form.

**Property Description:**

[3] The subject property has been assessed as a 1970 four-plex (two up two down) located in the Bridgeland district of Calgary, close to the NE edge of the downtown area. The property has been assessed with one one-bedroom suite at \$1,300/month and three two-bedroom suites at \$1,400/month, for a Potential Gross Income (annual) of \$66,000.

**Issues:**

Is the assessment of the subject property reflective of Market Value?

**Complainant's Requested Value: \$850,000**

**Board's Decision:**

[4] The Board confirms the assessment at \$1,030,000.

**Legislative Authority, Requirements and Considerations:**

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000 Section 460.1:

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

For the purposes of this hearing, the CARB will consider MGA Section 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.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

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.

and MRAT Section 4(1), which states that

The valuation standard for a parcel of land is

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

### **Position of the Parties**

#### **Complainant's Position:**

[5] The Complainant, N. Luu, argued that the Rent Rates for the Income Approach calculations for the subject Assessment were too high. He stated that the rates achieved by the subject property were \$1,650, \$1,550, \$1,300 and \$1,200 and included utilities.

[6] The Complainant provided seven possible comparable property sales of four-plexes in the City of Calgary. One of the Sales was a Land Sale (1923 – 27 Av SW) and was removed from the list and one was assessed as four separate condominium residences so did not have an assessment. They ranged in Sale Price from \$696,000 (January 15, 2013) to \$1,065,000 (February 4, 2013). An eighth Sale was later included by the Respondent (606 – 13 Av NE) and accepted by the Complainant. The six Sales remaining on the list had a median value of \$777,500.

[7] The Assessments for the six comparable properties ranged between \$696,000 and \$865,000 with a median of \$732,000.

[8] The Complainant stated that the Sales comparables he provided were from areas throughout the City of Calgary because there were no similar Sales in the neighbourhood of the subject property.

[9] The Complainant asked for a Typical Rent of \$1150/month with a resulting assessment of \$850,000 using the City of Calgary GIM.

**Respondent's Position:**

[10] N. Domenie, City of Calgary Assessor, stated that the Complainant had not returned a completed Assessment Request for Information (ARFI) for several years and the City was working from old information. He cited Section 295(4) of the MGA:

*No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within 60 days from the date of request.*

[11] Section 295(1) states as follows:

*A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed.*

[12] The Respondent argued that because the Complainant had not returned an ARFI in the last years, he could not make a complaint in this year. He said the Complainant had filed an ARFI for 2013. The Complainant also informed him that the ARFI request had been mailed to the wrong address and he was contacting the City of Calgary to correct that problem.

[13] N. Domenie provided a response to the Complainant's evidence in Document R1, providing support documents to show that other similar properties were assessed in the same way. The Respondent indicated that the ARFI has a section to report expenses such as utilities included in the rent. He also provided photographs of the interior of the subject property to show it had been well maintained and renovated.

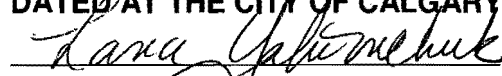
**Board's Reasons for Decision:**

[14] The Board considered the information presented by the Complainant. If the Complainant had submitted an ARFI, the Board would have put weight on the argument submitted.

[15] The Board considered the request by the Respondent to dismiss the Complainant's argument because he had not submitted an ARFI. The Act and the Regulations require the Board not to hear the complaint if requested necessary assessment information was not submitted.

[16] The assessment is confirmed at \$1,030,000.

DATED AT THE CITY OF CALGARY THIS 13<sup>th</sup> DAY OF September 2013.



**Lana Yakimchuk**

**Presiding Officer**

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
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.*

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Residential	Walk-up Apartment	Income Approach	Equity