



## **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:**

***Computer Rack Inc. (as represented by C. Lobo and O. Lobo), COMPLAINANT***

**and**

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

**before:**

***K. D. Kelly, PRESIDING OFFICER***

***A. Wong, BOARD MEMBER***

***R. Cochrane, 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:

|                            |  |
|----------------------------|--|
| <b>ROLL NUMBERS:</b>       | <b>200466803</b><br><b>200466654</b>                           |
| <b>LOCATION ADDRESSES:</b> | <b>#105 – 5718 – 1A ST SW</b><br><b>#106 - 5718 - 1A ST SW</b> |
| <b>FILE NUMBERS:</b>       | <b>70336</b><br><b>70293</b>                                   |
| <b>ASSESSMENTS:</b>        | <b>\$600,000</b><br><b>\$436,500</b>                           |

These complaints were heard together on 2<sup>nd</sup> day of July, 2013 at the office of the Assessment Review Board located at Floor No. 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *C. Lobo – property owner*
- *O. Lobo – participant*

Appeared on behalf of the Respondent:

- *T. Nguyen – Assessor – City of Calgary*

### **Regarding Brevity**

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] The Board was advised that these two files (70336 and 70293) are contiguous bays comprising one functional industrial condominium unit from front to rear of the structure. They are separated by an indiscernible legally-titled dividing line in the middle of the visually and functionally combined useable space. The "front unit" is legally identified as #105, and displays the typical "storefront" characteristics of business services, with glass windows and a man-door. The "rear" of the combined two units is legally identified as #106, and the "rear" wall is pre-finished steel with an overhead door. Exterior photos of the subjects are shown on pages 19 and 20 of the Respondent's Brief R-1.

[3] Each unit is a separately-titled condominium unit, but internally appears and functions as one single unit. The Complainants requested that the appeals of the individual assessments for these two files be heard together because of their unusual relationship the one to the other. The Respondent concurred with this request.

[4] The Board accepted the request of the parties to hear these two files together. The Board also noted that there were very poor photocopies of the Complainant's original Brief in the file. Consequently the Complainant had prior-submitted an additional copy of the same brief but labelled it as a "Rebuttal" document. The Board labelled the initial document C-1 and the second indential "Rebuttal" document C-2.

**Property Description:**

[5] The subjects are two separate legally-titled but contiguous industrial condominium units, both built in 2004 in South Manchester industrial area. Unit #105 (file 70336) is 2,199 square feet (SF) in area with 888 SF of finished mezzanine – all of which is assessed at a rate of \$272.85 per SF or \$600,000. Unit #106 (file 70293) contains 1,301 SF of unfinished warehouse space which is assessed at \$335.51 per SF or \$436,500.

**Issues:**

[6] What is the correct, fair, and equitable per square foot assessed value for each of the two units?

**Complainant's Requested Value:**

[7] The Complainant requests that the combined assessment for both unit # 105 (file 70336) and unit #106 (file 70293) be reduced to a total of \$812,000 based on an increase of 25% over the recently-reduced Listing (asking) price of \$650,000 for a nearby property comparable at #117 – 5718 – 1A ST SW.

**Board's Decision:**

[8] The Board confirmed the assessment of unit #105 in file 70366 at \$600,000.

[9] The Board reduced the assessment of unit #106 in file 70293 to \$350,000.

**Legislative Authority, Requirements, and Considerations:**

[10] Under the *Municipal Government Act* (MGA), the Board cannot alter an assessment which is fair and equitable.

[11] MGA 467 (3) states:

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the valuation and other standards set out in the regulations, the procedures set out in the regulations; and the assessments of similar property or businesses in the same municipality."

[12] The Board examines the assessment in light of the information used by the assessor and the additional information provided by the Complainant. The Complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities. If the original

assessment fits within the range of reasonable assessments and the assessor has followed a fair process and applied the statutory standards and procedures, the Board will not alter the assessment. Within each case the Board may examine different legislative and related factors, depending on what the Complainant raises as concerns.

### **Positions of the Parties**

#### **(a) Complainant's Position:**

[13] The Complainant presented her written Briefs C-1 and C-2. She clarified the configuration of the two units and how they function as one larger condominium unit where she operates an electronics sales and repair business. She clarified that unit #105 – the “front” of the combined unit, is moderately finished and serves as the general reception and retail focus of the business. Unit #106 however is described as completely unfinished and serves as the storage and repair part of the business. She clarified that there is no way to stand anywhere in the combined space and precisely define the legal demarcation of the two units.

[14] The Complainant clarified that the year-over-year assessment increases for the subjects - in the case of unit #105 was \$199,000, and for unit #106 was \$92,000, for a total increase for both units of \$291,000. In 2012 the assessment for unit #105 was \$401,000 but increased to \$600,000 in 2013. She noted that for unit #106 the assessment in 2012 was \$344,500 but increased to \$436,500 in 2013. She argued that the combined assessment for the two units on a year-over-year basis at \$1,036,500, and the apparent 28% increase of \$291,000 over the 2012 combined assessment, is excessive.

[15] The Complainant advised that she purchased the two units together in 2011 for \$850,000 and “likely over-paid”. She clarified that there have been no changes to the building, and that current sales offerings for comparable buildings are much less than what she paid. The Complainant referenced a Real Estate “Listing” of a property at #117 – 5718 – 1A ST SW which she noted had recently been reduced to \$650,000. She considered this property to be comparable to the subject. She did not however provide the listing details of this property to the Board. The Complainant argued that the current combined assessment of \$1,036,500 for the two units represents a 37% increase over a current “Listed” asking price (\$650,000) for a comparable property, which is excessive.

[16] The Complainant requested that the assessments for both unit #105 and unit #106 be reduced to a combined total of \$812,000.

**(b) Respondent's Position:**

[17] The Respondent provided his Brief R-1 and confirmed that the Complainant's two industrial condo units function as one unit. He noted that when the properties were first built they were legally subdivided by the owner/developer into the respective condo units. The front of the combined unit has a civic address of #105 and the back of the combined unit has a civic address of #106 – 5718 – 1A ST SW. Therefore, he explained, it is necessary to assess them individually. The Respondent provided copies of the respective Alberta Land Titles registration documents for each unit, thereby confirming the foregoing.

[18] The Respondent provided copies of the City's respective "2013 Industrial Condo Assessment Explanation Supplements" and clarified that the ("front") unit #105 is assessed as having 888 SF of finished mezzanine area and 1,311 SF of warehouse – all of which is assessed at \$272.85 per SF or \$600,000. He clarified that the ("rear") unit #106 is assessed as having 1,301 SF of unfinished warehouse which is assessed at \$335.51 per SF or \$436,500.

[19] On page 22 of R-1 the Respondent provided a matrix containing twelve assessment equity comparables. Five were intended to support as fair and equitable, the assessment of "finished" unit #105, and seven intended to support the assessment of unfinished unit #106. The five comparative assessments for unit #105 ranged from \$284 per SF to \$335 per SF - unit #105 being assessed at \$273 per SF. The range of unit size for the comparatives ranged from 2,089 SF to 2,453 SF – unit #105 being 2,199 SF.

[20] The Respondant reviewed the seven assessment equity comparables for unit #106, noting that the assessed values for unfinished warehouse space were all \$335 per SF. He noted that the various sizes of the seven units ranged from 1,322 SF to 1,389 SF – unit #106 being 1,301 SF in area. The Respondent argued that these ranges of assessed values support the assessment of the subject as being fair and equitable.

[21] The Respondent provided a second matrix on page 23 of R-1 containing four "2013 Industrial Condo Sales Comparables". He noted that two sales consisted of properties, each having entirely "upper level finished areas" of 1,055 SF, and which sold in 2010 and 2012 for \$442 per SF and \$359 per SF respectively. He argued that these two sales support the assessment of unit #105 at \$273 per SF.

[22] The Respondent reviewed the remaining two sales from Fairmount Drive SE on page 22 of R-1 which transacted in 2010 and 2011 respectively. He compared them to unfinished warehouse unit #106. He noted that the 2010 sale property consisted of 3,412 SF of unfinished warehouse and sold for \$220 per SF. He also noted that the 2011 sale consisted of both 2,771 SF of unfinished warehouse and 202 SF of ground floor finished area and sold for \$223 per SF. He argued that these values support the assessment of unit #106 at \$336 per SF.

[23] The Respondent argued that this market evidence supports the assessments for both unit #105 and #106. He requested that the assessments for each of the two units be confirmed.

**Board's Reasons for Decision:**

[24] The Board finds that a year-over-year percentage increase/decrease in assessed value is not – in and of itself, sufficient or valid reason to change an assessment. The provincially mandated Mass Appraisal process used to assess properties in the province, functions on the basis of valid open market property sales evidence and values, and not by any arbitrary percentage increase/decrease. Therefore the Board does not accept the Complainant's request to lower the assessment, based only on a 28% year-over-year assessment value increase from 2012 to 2013.

[25] The Board finds that the sales and equity data provided by the Respondent on pages 22 and 23 of his Brief R-1 supports the assessment of "finished" unit #105 at \$273 per SF, and the 2013 annual assessment of unit #105 at \$600,000. The assessment of unit #105 therefore is confirmed.

[26] The Board finds that the Complainant provided insufficient market information to demonstrate that unit #105 is over-assessed. While it may provide an indication of current market trends, and the Complainant did not provide the Board with any details, the Board does not accept a current Real Estate "Listing" of a property as evidence of market value. As noted in [24] above, only valid market sales are indicative of market value under the Mass Appraisal process.


[27] The Board finds that unit #106 is over-assessed. The Board notes that unit #105 is comprised of 888 SF of fully-finished space and 1,301 SF of unfinished warehouse space. It is assessed overall at \$273 per SF.

[28] The Board finds that Unit #106 by comparison contains an almost identical 1,301 SF of unfinished space and is assessed at a much higher \$336 per SF – in essentially the same functional business unit. The Board finds on the basis of the evidence that this is inconsistent, erroneous, and without merit.

[29] The Board finds that the Respondent's two Fairmount DR SE market sales on page 23 of R-1, which are the same age as, but slightly larger than the subject, and identified by the Respondent as largely unfinished warehouse properties, sold on the open market for \$220 and \$223 per SF respectively. Therefore the Board concludes that the \$336 per SF used to assess the unfinished subject unit #106 is excessive.

[30] The Board finds that the two subjects - unit #105 and unit #106 are almost identical in size, with unit #105 having an additional 888 SF of finished space. Since the partially-finished unit #105 is correctly assessed at \$273, the Board considers that the 1,301 SF of unfinished unit #106 should be assessed at a more equitable \$270 per SF. The Board reduces the assessment of unit #106 to \$350,000 which it considers to be correct, fair, and equitable.

DATED AT THE CITY OF CALGARY THIS 31 DAY OF July 2013.

  
K. D. Kelly  
Presiding Officer

#### **APPENDIX "A"**

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

| NO.    | ITEM                              |
|--------|-----------------------------------|
| 1. C-1 | Complainant Disclosure            |
| 2. C-2 | Complainant Disclosure - Rebuttal |
| 3. 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.*

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| Appeal Type | Property Type | Property Sub-type | Issue        | Sub-Issue |
|-------------|---------------|-------------------|--------------|-----------|
| CARB        | industrial    | Condominium unit  | market value | equity    |