

**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:

IMC 8059, ASI 17th Avenue Corp. (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

P. Petry, PRESIDING OFFICER

H. Ang, BOARD MEMBER

R. Deschaine, BOARD MEMBER

These are complaints to the Calgary Assessment Review Board in respect of a property assessments prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

ROLL NUMBERS:	ADDRESSES:	FILE NUMBERS:	ASSESSMENTS:
079131504	229 - 17 Ave. S.E.	70580	\$1,240,000
079108908	221 - 17 Ave. S.E.	70600	\$1,620,000

These complaints were heard on the 10th day of June, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *G. Worsley and W. Van Bruggen*

Appeared on behalf of the Respondent:

- C. Fox

Property Description:

- [1] The subject properties are office/house conversions located along 17th Avenue in the Beltline and are owned by the same owner. Both parties presented the same evidence for these complaints. The property located at 221 17th Avenue SE has 2,100 sq. ft. of rentable space, 1,320 of which is above grade and 780 sq. ft. is below ground level. The property located at 229 17th Avenue SE has 2,509 sq. ft., 1,753sq.ft. of which is above grade and 756 sq. ft. is below ground level. Both properties are classed as B class or average commercial buildings.

Issues:

- [2] The primary issue in this dispute centres on the direct sales approach and the resulting market value produced for the properties under complaint.

Complainant's Requested Value:

- [3] The Complainant requests that the value of each property be based on \$500 per sq. ft. with the following results:

079131504	229 - 17 Ave. S.E.	70580	\$1,050,000
079108908	221 - 17 Ave. S.E.	70600	\$1,250,000

Board's Decision:

- [4] The CARB's decision is to allow the complaints and set the assessment at the values requested above.

Legislative Authority, Requirements and Considerations:

- [5] The Composite Assessment Review Board (CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:
- [6] *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).*
- [7] For purposes of the 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*
- [8] The Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA section 293(1)(b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 2:
- [9] *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*

Summary of the Party's Positions**Complainant**

- [10] The Complainant provided three sales and two post facto sales which together produced an average sales price per sq. ft. of \$409 and a median of \$390 per sq. ft. Removing the post facto sales resulted in an average selling price of \$434 per sq. ft. and a median of \$488 per sq. ft.
- [11] The Complainant also provided the assessment data for these sales and argued that the subject properties had not been assessed in an equitable manner. The average assessment for these sales is \$386 per sq. ft. and the median is \$421 per sq. ft. while the assessments for the subjects are \$645 per sq. ft. and \$590 per sq. ft.
- [12] The Complainant acknowledged that land size and land value are considerations but if one applies the Respondent's land rate of \$160 per sq. ft. for the area (BL-8) where the subjects are located, the assessment value for 221 17th Avenue SE would be \$1,384,000 and for 229 17th Avenue SE a value of \$946,000. These values are very close to the proposed values using the direct sale approach and confirm that the Complainant's recommendations are very realistic.

Respondent

- [13] The Respondent brought forward the same three sales relied upon by the Complainant. The Respondent's information showed a "land & building" sale adjustment value for the

subjects and for the sold properties. The Respondent requested that the CARB change the heading for this information to "assessment \$/per sq. ft. land & building". These values for the subject properties were \$510.14 per sq. ft. and \$504.95 per sq. ft. The same adjusted values, for the sold properties, showed an average value of \$486.68 per sq. ft. The Respondent was not able to describe how these values were arrived at or how the adjustments were made.

- [14] The Respondent also introduced four comparables to show equity in the assessments for the subject and other house conversion properties. One of these properties had been assessed using the income approach and was therefore removed. The remaining three showed an average assessment of \$536 per sq. ft. and a median of \$484 per sq. ft.

Findings and Reasons for the Board's Decision:

- [15] The CARB has carefully considered both parties sales data. The Board concluded that while the Complainant had included post facto data the resulting average and median values were similar. Post facto sales are valid if they occur reasonable close to the valuation date and are often useful for trending purposes or to confirm values used in the primary analysis. Both parties have used a sale at 903 – 15th Avenue which should have been considered a non-arm's length sale. Even when this sale is removed the new average of \$475 per sq. ft. remains supportive of the Complainant's requested value.
- [16] The Respondent was not able to clarify why or how it adjusted the sales data, however even if the adjustments could have been determined to be valid, this information is generally supportive of a lower assessment. CARB concludes that the evidence brought forward by the Complainant supports its requested value of \$500 per sq. ft. The Respondent's assessment information respecting the equity argument also supports a value of \$500 per sq. ft. as being equitable.
- [17] The complaint is therefore allowed and the assessments are revised as follows:

079131504	229 - 17 Ave. S.E.	70580	\$1,050,000
079108908	221 - 17 Ave. S.E.	70600	\$1,250,000

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 9th DAY OF July 2013.


Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
Commercial	Office	House Conversions	Direct Sales	