



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:

HEATHER DAWN WILLIAMS, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

PRESIDING OFFICER: P. COLGATE

BOARD MEMBER: D. STEELE

BOARD MEMBER: A. ZINDLER

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: 200243087

LOCATION ADDRESS: 105 535 8 AVENUE SE

FILE NUMBER: 71456

ASSESSMENT: \$245,000

This complaint was heard on the 17th day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4th, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- Neither the owner nor a representative appeared at the hearing.

Appeared on behalf of the Respondent:

- *David Zhao. City of Calgary*

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

[2] No preliminary matters were presented to the Board. The Respondent noted no disclosure document was submitted, but did not challenge the hearing of the complaint. The merit hearing proceeded.

Property Description:

[3] The subject property is a main floor condominium unit located in the Orange Lofts, an East Village building at 535 8 Avenue SE. The unit is 650 square feet in area.

[4] The assessment class has been split 51% residential and 49% non-residential.

Issues:

[5] The issue place before the Board by the Complainant was the percentage split between the residential and non-residential assessment classes.

Complainant's Requested Value: \$245,000.00

Board's Decision:

[6] Based upon the lack of compelling evidence the Board confirmed the assessment class distribution at 51% residential and 49% non-residential. The assessed value remained unchanged.

Legislative Authority, Requirements and Considerations:

[7] In the interest of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

Position of the Parties**Complainant's Position:**

[8] As there was no representation before the Board and no disclosure document submitted, the Board read the Complainant's complaint form comments into the record.

[9] The Complainant, on the complaint form, did not request a change to the assessed value of \$245,000.

[10] The Complainant wrote on the complaint form:

"I disagree with how the multiple tax rates are applied – approximately 50% to residential and 50% to business. The person renting is living in the property and conducting a business. A week consists of 7 days x 24 hrs/day = 168 hrs/wk. Atypical work week is 40 hrs. The business usage is $40/168 \times 100 = 23.81\%$ and the residential usage is 76.19%. Thus the property tax amount should be $(\$245,000 \times 0.0135515) \times 23.81\% = \790.52 for business and $(\$245,000 \times 0.0059929) \times 76.19\% = \$1,118.67$ for a total of \$1,909.19.

[11] No other documents were submitted to the Board.

Respondent's Position:

[12] The Respondent identified the unit under complaint through photographs, condominium plans and web site information.

[13] The Respondent stated the split between the residential and non-residential components was based upon the area used for reach of the activities.

Board's Reasons for Decision:

[14] The Board noted the Complainant presented a recalculation of the taxes for the subject property. The Board has no authority to hear complaints on taxes paid for a property and accordingly makes no decision with respect to the amount of the taxes.

[15] The Board found the Complainant's methodology on determining the split between the residential and commercial classes interesting; however the Complainant did not show the process for how the monitoring of the use was to be accomplished. The logistics of this approach would be practically insurmountable.

[16] The Board accepted a consistent approach has been applied by the Respondent to determine the split between the residential and non-residential classes, based upon the square footage in use for each. If the Complainant has issue with the areas used in this approach then it is the responsibility of the Complainant to approach the City of Calgary Assessment Business Unit to discuss the matter.

[17] Lacking sufficient evidence to change the distribution of the assessment classes the Board confirms the residential class at 51% and the non-residential class at 49%. The assessment value was not under complaint and remained unchanged at \$245,000.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF November 2013.

A handwritten signature in black ink, appearing to read 'P. Colgate', written over a horizontal line.

PHILIP COLGATE
Presiding Officer

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

NO.	ITEM
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.*

LEGISLATIVE REQUIREMENTS**MUNICIPAL GOVERNMENT ACT**

Chapter M-26

1(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;

Division 1**Preparation of Assessments****Preparing annual assessments**

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

289(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,

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

1(f) "assessment year" means the year prior to the taxation year;

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.

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Residential	High-Rise Apartment (Unit Ownership)	Cost/Sales Approach	Class