



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:

337915 ALBERTA LTD. (as represented by WERNICK OMURA REAL ESTATE ADVISORY SERVICES.)
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Walter Krynski, PRESIDING OFFICER
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:

ROLL NUMBER:	075020305
LOCATION ADDRESS:	4601 17 Avenue SE
FILE NUMBER:	71489
ASSESSMENT:	1,170,000

This complaint was heard on 27 day of June, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #10.

Appeared on behalf of the Complainant:

- *Mr. Bruno Boccacchio*

Appeared on behalf of the Respondent:

- *Ms.. Sandra Paulin*
- *Mr. Cliff Yee*

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

- [1] The parties had no objections to the panel representing the Board, as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

- [2] The Subject Property is a 14,529 s.f. parcel, located at 4601 17 Avenue SE., situated on the SE corner of 17 Avenue SE, and 45 Street SE., in the community of Forest Lawn. The property is improved with a 2,142 s.f. freestanding commercial building, built in 1998. The property is classified as an A+ fast food restaurant, and is occupied by Dairy Queen.

Issues:

Is the assessment of the property, predicated on the Sales Comparison Approach, and valued as "Land Only", correct?

Complainant's Requested Value: 870,000

Board's Decision

- [3] The Board derives its authority to make a decision under Part 11 of the Municipal Government Act (the "Act").
- [4] On review and consideration of all the evidence before it in this matter, the Board finds that there is insufficient evidence provided to justify a change to the assessment of the property under complaint.

The Decision of the Board is to confirm the assessment at 1,170,000.

Legislative Authority, Requirements and Consideration

- [5] The Calgary Composite Assessment Review Board derives authority from the Municipal Government Act and associated Government of Alberta Legislation and Regulations.

Position of the Parties

Complainant's Position:

- [6] The issue is one of both market value, and equity. The Complainant requests that the Subject assessment be calculated on the Income Approach, versus the current valuation, which is predicated on a vacant land value, via the Sales Comparison Approach.
- [7] Submitted into evidence, were maps, photos, etc., providing a visualization of the Subject Property and its' location.
- [8] Eight Comparables, considered to be similar to the Subject were provided, and summarized on a chart:

Description	Sub Prop. Use	Lot Location	Approach/Value
Subject (DQ)	CM0201 Retail freestanding	Corner	Sales
A&W	CM0201 Retail freestanding	Corner	Income
Tim Horton	CM0201 Retail freestanding	Corner	Income
Taco Bell	CM0201 Retail freestanding	Corner	Sales
KFC	CM0201 Retail freestanding	Corner	Income
MacDonald's	CM0201 Retail freestanding	Inside	Income
Burger King	CM0201 Retail freestanding	Corner	Income
Phil's	CM0203 Retail S.C.	Inside	Sales
Pizza Hut	CM0203 Retail S.C.	Corner	Income

**** Chart as replicated from Complainant's submission***

- [9] For ease of comparison, a second chart was presented, itemizing the 8 comparable properties, and their respective locations, rentable areas, Year of construction, Quality Class, etc. For the sake of brevity, the Chart is not reproduced here.
- [10] The Complainant argues that the Subject Property is unfairly assessed at vacant land value, while other similar properties are assessed on the Income Approach. The Complainant maintains that the City is inconsistent in its' valuation methodology for similar properties, and has also referenced two similar properties that are also incorrectly assessed as vacant land, via the Sales Comparison Approach. In the complainant's opinion, the subject must be assessed on Income.
- [11] Furthermore, the Complainant questions the accuracy of the Subject Sales Comparison assessment, when there are no land sales to be found in the immediately surrounding communities.
- [12] Based on all of the foregoing, the Complainant is of the opinion that an assessment predicated on the Income Approach, utilizing the same income parameters (rent, vacancy rate, operating costs, cap. Rate, etc) as other similar A+ quality fast food restaurants, is warranted. A calculation of the requested 870,000 assessment via the Income Approach was provided.

Respondent's Position:

- [13] The Respondent submits that the City is consistent in their valuation methodology. The City maintains that two of the Complainant's comparables which, not unlike the Subject, are assessed as vacant land, and are indeed correctly assessed.. Furthermore, the Respondent acknowledges that the comparables A&W and KFC were incorrectly valued using the income approach. The City has corrected the errors, and issued 2013 amended Assessment Notices, valuing the properties as "land only", using the Sales Comparison Approach. Additionally, the Taco Bell assessment will be amended to reflect a 5% corner lot influence.
- [14] In respect of the land valuation process, the Respondent submitted a Chart entitled "2013 Commercial Land Values". The Chart identifies the various land rates that are applied for the specific Land Use Designations, on a city-wide basis. The Respondent explained that for the Subject and Comparables "CCOR Land Use", seven land sales, occurring between July 2010 and June 2012 were analysed. The sales were in various locations throughout the City, and while there was a sale in the Subject neighbourhood, it was excluded, due to significant site contamination. Particulars of the seven sales was not included in evidence.
- [15] In support of their valuation methodology, the respondent submits that the purpose of assessment is market value. The valuation methodology via any of the three approaches to value, is simply a means to an end, and that end is market value. The City maintains that both market value and equity are achieved through the application of either Sales Comparison Approach, or Income Approach, depending on property-specific characteristics. It is the City's position that, to value an improved property below the threshold of the underlying vacant land value, would provide inequity among assessments.
- [16] Five Board Decisions were referenced, in support of the Assessment Business Unit's position to not value any property at an amount less than its' basic land value.

Board's Reasons for Decision:

- [17] Upon reviewing all the evidence, the Board was not convinced that the Subject assessment is not reflective of market value, or that it is inequitable. Of the 8 comparables provided by the Complainant, two (Phil's and Pizza Hut), were identified as being located in Neighbourhood Shopping Centres, and thereby not considered comparable. Three comparables (KFC, Taco Bell, A&W) had been issued amended notices, to correct errors in their valuation methodology, thereby supporting the subject valuation. The remaining three comparables (McDonald's, Tim Horton's and Burger King), were considered to be appropriately assessed, as the value determined via the Income Approach, exceeded their respective vacant land values..
- [18] Finally, the Complainant argued that the City's vacant land analyses of seven sales located city-wide, was flawed. They Maintain that none of the sales are in the Subject location, and the broad analysis performed by the City was not necessarily representative of land values for the Subject property. While the Board has struggled with this very same concept, it finds that, is incumbent upon the Complainant to provide the evidence that supports their position. The Complainant, in this instance, has not provided any market evidence to suggest the land values in the subject location are incorrect.
- [19] In respect of valuation methodology, the Board is in agreement with the City, that the prime function of the assessment process is to provide an estimate of market value, regardless of valuation process. A number of Board Orders were referenced in the Respondent's evidence, which support the notion that, in circumstances where the improvements on a property are incapable of producing a capitalized income value that exceeds the established land value, then the land value represents the market value of the property. This panel is in full agreement with this concept.
- [20] In summary, the Board did not find the evidence provided by the Complainant to be sufficient to alter the Subject assessment.

DATED AT THE CITY OF CALGARY THIS 19th DAY OF July 2013.



Walter Krynski

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Commercial Retail	Freestanding Retail	Land only valuation	Equity