



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:

1167186 Alberta Ltd. (as represented by Altus Group Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Glenn, PRESIDING OFFICER

A. Huskinson, BOARD MEMBER

D. 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: 067234104
LOCATION ADDRESS: 800 1 AVE SW
FILE NUMBER: 71538
ASSESSMENT: \$3,260,000

This complaint was heard on Monday, the 29th day of July, 2013 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 4.

Appeared on behalf of the Complainant:

- A. Izard, Agent

Appeared on behalf of the Respondent:

- E. Currie, Assessor

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

[1] When asked, neither party raised any issues with regard to either procedure or jurisdiction.

Property Description:

[2] The subject is a secure underground public parking facility, referred to as La Caille Parkade, located on the NW corner of the downtown core on the edge of Eau Claire Park, along the Bow River. The subject, built in 2003, has parking space for 68 cars.

Issues:

[3] The Complainant identified 3 substantial issues which they wished to address in this hearing. These include:

- (a) The Capitalization Rate
- (b) The Expense Ratio
- (c) The Assessment Class

Complainant's Requested Value:

[4] \$400,000

Board's Decision:

[5] The assessment was confirmed at \$3,260,000.

Complainant's Position:

[6] The Complainant's argue that a portion of the subject property (8 of 68 available stalls) is intended to provide parking for residential use. Therefore, they say that the assessed value should reflect the use of several mill rates, specifically, demonstrating the use as 11.76% Residential and 88.24% Non-Residential.

[7] They carry on arguing that the Respondent's only sales comparable is the Bow Parkade, the purchaser of which is planning on re-developing that site, noting that city council has already approved zoning changes which would allow the building of two office towers on the site which would necessitate the demolition of the Bow Parkade. From this, they argue that the subject site is not capable of re-development, and therefore the Bow Parkade is not really a comparable property.

[8] Further, the Complainant argues that the physical and legal characteristics of the subject parcel do not allow for any future development, or increased density, as the owner of the subject is the City of Calgary and the lands are designated municipal park lands for the Bow Parkway System. Therefore, they argue that the assessed capitalization rate for the subject should not be lower than that of an 'AA' building at 6%. The Respondents use a cap rate of 4.5%, based on their one sale, but the Complainants counter with a suggested cap rate of 5%. They also note that not all parkades are assessed at a 4.5% cap rate.

[9] The Complainants argue that this parkade business is 'Atypical' and that the subject property has demonstrated 'Atypical' expense ratios compared to other parkade structures. While the City has acknowledged that the income generated is already 'Atypical' from other locations, the City's Assessment Business Unit has failed to take the 'Atypical' expense ratio into consideration. They say the LaCaille Parkade exhibits a ratio that is almost double the relatively comparable parkade, as per the City, at 722-8th Ave SW, which is classified as 'B Quality' while the subject is the only 'C- Quality' parkade in the municipality.

[10] The Complainants argue that the subject site is problematic, noting the height of the water table due to the adjacent Bow River. They say that the rent is excessively high and that the City is not receiving any rental monies because expenses have always exceeded rental income. The 'typical' gross income assigned to the property has been determined to be \$244,800 for the 68 stalls, yet this property has only ever achieved between \$172,578 in 2011 and \$177,960 in 2010 respectively.

[11] The expense ratio adjustment for the subject property far exceeds the 'Typical' expense ratio of 40% assigned to other parkade structures and should be adjusted according to what has been observed as 'Typical' for the past 3 years for this property at 90%, or alternatively, the midpoint of the median expense ratio for this quality rating for 2011 to 2012 at 75%.

Respondent's Position:

[12] The Respondents argue that the 4.5% assessed cap rate was properly derived from their one comparable sale as well as the cap rate assessed to other parkades in downtown Calgary and provide a substantial Parkade Equity chart to back up their argument. Aside from that, they seem to base much of their argument on what is 'typical' in the instant situation. They

suggest that the Complainant bases their argument on actual figures, and therefore is inconsistent with language used in the MRAT Regulations, which state in part 1, section 2:

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.

[13] The Respondents also take issue with the Complainant's position that the subject cannot be re-developed. They say that any parkade can be re-developed.

[14] The Respondents rely on a number of LARB and CARB decisions to assist them in argument. In **LARB 73614-B-2013**, the Board determined that the 8 residential stalls should not be exempt from business tax, and further, there is no evidence that this parking business is 'Atypical'. Accordingly, they say that the typical numbers they relied on are consistent with MRAT Regulations.

[15] The Respondents go on to note that they have addressed all of the issues with evidence of substance. They go on to note that if the Complainant's argument is accepted, the assessment value of the subject will be amended to be \$400,000. This they say, is not rational or supportable

Board's Decision:

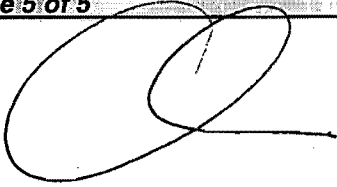
[16] With regard to the cap rate, the Complainant provided confirmation that the cap rate for parkades does vary according to Class, but provided no substantial evidence that convinced the Board to raise the cap rate as requested.

[17] The expense ratio sought by the Complainant was simply excessive. There was much discussion, but once again, the Board was not convinced that the expense ratio should be raised to the requested figure. The Lease agreement for the subject property does not require the tenant to pay rent until the tenant has been fully reimbursed from net revenue for capital expenses. This is enough in the Board's view to defeat the Complainant's argument on the requested increased expense ratio.

[18] The Complainant's argument on assessment class was briefly explored, but not fully supported nor developed. There was simply not enough substantiating information presented by the Complainant

[19] The Board finds that they are not convinced by the argument or evidence of the Complainant that the requested values should be implemented. Accordingly, the assessment as originally rendered is confirmed in the amount of \$3,260,000.

DATED AT THE CITY OF CALGARY THIS th 29 DAY OF AUGUST, 2013.



R. Glenn
Presiding Officer

PPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R2	Respondent Disclosure
3. C2	Complainant Rebuttal Disclosure
4. C3	Complainant Additional 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.*