

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:

GASTHAUS RESTAURANTS INC.
(as represented by Altus Group Ltd.)

Complainant

and

THE CITY OF CALGARY

Respondent

before:

T. Shandro, PRESIDING OFFICER
J. Rankin, BOARD MEMBER
P. Grace, 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:	080093206
LOCATION ADDRESS:	2435 – 4 Street SW, Calgary, Alberta
FILE NUMBER:	71561
ASSESSMENT:	\$5,680,000

This complaint was heard on August 13, 2013, at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- A. Izard, Agent, Altus Group Ltd.
- M. Cameron, Altus Group Ltd.

Appeared on behalf of the Respondent:

- C. Fox, Assessor, The City of Calgary

Procedural or Jurisdictional Matters

[1] There were no procedural or jurisdictional matters arising.

Property Description

[2] The subject property is located in the community of Cliff Bungalow and assessed as Retail Mixed Use on a parcel size of 20,510 square feet ("SF"). The building is known as Mission Bridge Retail Building, which includes 3,824 SF of restaurant space, 3,172 SF of retail space and 7,504 SF of retail space below grade. The building was constructed in 1955. The quality of the building is classified by the City for assessment purposes as "A2".

[3] The rental rate for the restaurant space of the subject property is assessed as \$42.00/SF.

Issues

[4] In Section 4 of the Assessment Review Board Complaint, dated February 26, 2013, and received by the Board on March 4, 2013 (the "Complaint Form"), the following were marked as matters relating to the complaint:

- 1) 3, "an assessment amount"; and
- 2) 4, "an assessment class".

[5] The evidence package of the Complainant identified the following issues related to the assessed value of the subject property:

- 1) The assessed capitalization rate was claimed to be incorrect;
- 2) The assessed rental rate for the retail space was claimed to be incorrect; and
- 3) The assessed rental rate for the restaurant space was claimed to be incorrect.

[6] At the hearing the Complainant spoke only to the assessment amount, not to the assessment class. The Complainant also did not speak to the capitalization rate or assessed

rental rate of the retail space.

[7] After hearing the arguments from both the Complainant and the Respondent, the following is determined to be the issue in this matter:

1. Is the assessed rental rate for the subject property incorrect?

Complainant's Requested Value

[8] In the Complaint Form the Complainant requested a reduced assessment of \$3,860,000. At the hearing the Complainant amended the requested value to \$5,110,000, based on a rental rate of \$33.00/SF. In the alternative, the Complainant at the hearing requested the assessment be \$5,180,000, based on a rental rate of \$34.00/SF.

Board's Decision

[9] The Board amends the assessment of the subject property to \$5,180,000.

Complainant's Position

[10] The Complainant characterized the street upon which the subject property is located, the portion of 4 Street SW between 17 Avenue and 26 Avenue SW, as "Restaurant Row". The Complainant provided a rental rate analysis for properties in the Beltline and Mission. The analysis included only properties which were assessed as having a "B" quality.

[11] The Complainant argued that restaurants spaces on Restaurant Row are different from restaurant spaces on 17 Avenue SW. The Complainant further argued that restaurant spaces in the Beltline and Mission should be distinguished by their size in that spaces smaller than 1,000 SF are likely fast food spaces with limited dining spaces. The Complainant provided documentary evidence to argue that the rental rates for these smaller restaurant spaces are much higher than spaces with larger and more formal dining spaces.

[12] The Complainant concluded from its rental rate analysis that the rental rate for a restaurant with larger spaces for more formal dining would have a mean of \$33.47/SF, and a median of \$33.56/SF.

[13] The Complainant then used four comparables on Restaurant Row:

- 1) Anejo, at 2, 2116 – 4 Street SW, with an area of 3,055 SF;
- 2) Candela Lounge, at 1919 – 4 Street SW, with an area of 4,086 SF;
- 3) Joyce on 4th, at 508 – 24 Avenue SW, with an area of 4,889 SF; and
- 4) Vin Room, at 2310 – 4 Street SW, at 3,912 SF.

[14] The median rental rate for these properties, including the subject property at \$42/SF for 3,824 SF, was \$33.90/SF and the mean rate was \$35.58/SF.

[15] The Complainant presented a number of equity comparables on Restaurant Row. There are four properties, including the subject property, which are assessed with a rental rate of \$42.00/SF: Mercato, Famoso and Earl's Tin Palace are the other three. The Complainant claimed there are nine restaurant spaces on Restaurant Row, between 1,248 SF and 4,889 SF, which are assessed with a rental rate between \$30.00/SF and \$33.00/SF. (One property,

Candela, is assessed with a rental rate of \$30.00/SF.)

Respondent's Position

[16] The Respondent took issue with the rental rate analysis of the Complainant. The Respondent argued that all of the properties were assessed as "B" quality and therefore distinguishable from the subject property.

[17] The Respondent advised that the \$30.00/SF rental rate assessed for Candela was an error and argued that an error related to a neighbouring property should not result in the subject property's rental rate being reduced.

[18] The Respondent argued that the subject property has a quality of "A", which should result in a rental rate of \$42.00/SF. Only properties with "B" quality should have a lower rental rate. Yet the Respondent could not answer why \$42.00/SF was used for "A" quality buildings.

[19] The subject property was constructed in 1955, but the Respondent claimed it was an "A" quality, and supported this argument by providing the permit history for the subject property. However it was not clear what amount of work for these permits was actually performed, as some appeared expired. Some permits also appeared to be for tenant improvements in the retail space for a tenant which had since moved.

[20] The Respondent provided its own rental analyses. One was 11 properties of "A2" quality retail space, which the Respondent calculated with a mean of \$36.55/SF, and all were assessed as \$32.00/SF [R-1, p. 48]. The Complainant did not contest the retail rate of \$32/SF.

[21] The other analysis was for "A" quality restaurant properties and included ten properties, including the subject property. The Respondent calculated a mean of \$47.00/SF and mean of \$46.25/SF. All of these properties were assessed with a rental rate of \$42.00/SF, but only two (including the subject property) were on 4 Street in Cliff Bungalow or Mission in the FS1 submarket area. The other eight were on 17 Avenue SW in the Beltline in the BL6 submarket area. As well, some of these spaces appear to be very distinguishable from the subject property. One property, e.g., is in the Mission Medical Centre. The leasable areas also appear much smaller than the subject property: only one property was larger than 2,008 SF, and six were less than 1,500 SF.

Board's Reasons for Decision

[22] The Board agrees that the rental rate for the Candela restaurant is a mistake and that the Board cannot reduce the subject property's assessment based on an error related to a neighbouring property. That error does not constitute an inequity. The rental rate for this property cannot be considered in this matter.

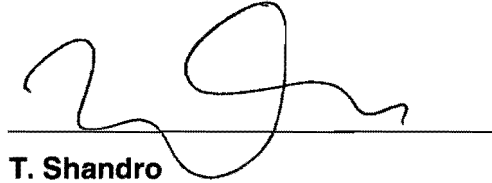
[23] For the following reasons however, the Board amends the assessment amount of the subject property.

[24] When comparing the rental analyses provided by the two parties, the properties included in the Respondent's analysis are more easily distinguishable from the subject property. The properties are from a different area (17 Avenue SW, not 4 Street SW) and all but one are from FS1. They are also substantially smaller in size and there is information to indicate that the larger restaurant spaces with dining spaces have lower per square foot rental rates. Many of the spaces included in the Respondent's analysis also appeared to be in quite different spaces, including subproperty uses of CS2215 and CS1025.

[25] The Complainant's analysis included properties all within the FS1 submarket area in Mission or Cliff Bungalow on 4 Street SW with restaurants of comparable sizes and spaces.

[26] For these reasons, the Board therefore amends the assessment of the subject property to \$5,180,000, using a rental rate of \$34.00/SF for the restaurant space.

DATED AT THE CITY OF CALGARY THIS 11 DAY OF September 2013.

A handwritten signature in black ink, appearing to read 'T. Shandro', is written over a horizontal line.

T. Shandro

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 Purposes Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Stand alone	Income approach	Lease rate