

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:

Beaux Properties International Inc. (as represented by Cushman & Wakefield Property Tax Services), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER
D. Julien, BOARD MEMBER
A. Zindler, 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:	201175239
LOCATION ADDRESS:	80, 515 – 17 Avenue SW, Calgary AB
FILE NUMBER:	71719
ASSESSMENT:	\$1,830,000

This complaint was heard on the 20th day of August, 2013 at the office of the Assessment Review Board located at Floor No. 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *S. Ubana*

Appeared on behalf of the Respondent:

- *L. Wong*

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

- [1] There were no preliminary procedural or jurisdictional matters to be decided.

Property Description:

[2] The property that is the subject of this assessment complaint is the ground floor unit in a highrise apartment building registered as a condominium and known as Stratford Towers. The subject unit 80 is the only non-residential unit in the building. It is in two parts, one part on either side of a central entrance and lobby. Registered condominium plan 0714961 shows a unit area of 593.2 square metres (6,385 square feet). The Property Assessment Detail Report shows the areas of the two parts as 3,461 square feet and 2,919 square feet. The condominium unit factor is 2,597. Residential units on upper floors have unit factors from 75 to 112 (one 8th floor penthouse unit factor is 273) and each of 27 underground parking stalls has a unit factor of 1.

[3] Commercial retail condominium units are assessed by use of a sales comparison approach. The non-residential rate applied to this property is \$288 per square foot. The original 2013 assessment was prepared using a floor area of 6,099 square feet but when an error was discovered, an amended notice was mailed January 31, 2013 wherein the area was adjusted to 6,380 square feet at \$288 per square foot. It is the amended assessment of \$1,830,000 that is under complaint.

Issues:

[4] In the Assessment Review Board Complaint form, filed March 4, 2013, Section 4 – Complaint Information had check marks in the boxes for #1 “the description of the property or business”, #3 “an assessment amount”, #4 “an assessment class”, #5 “an assessment sub-class”, #6 “the type of property”, #7 “the type of improvement”, #8 “school support”, #9 “whether the property or business is assessable”, and #10 “whether the property or business is exempt from taxation.”

[5] In Section 5 – Reason(s) for Complaint, the Complainant repeated several of the points from Section 4 and set out some grounds in support of the issues.

[6] At the hearing, the Complainant pursued the following issue: Should the assessment be reduced because the basis for calculating the condominium unit factor is different for this unit

than it is for the other units in the property or in comparable properties?

Complainant's Requested Value: \$1,200,000

Board's Decision:

[7] The assessment is confirmed at \$1,830,000.

Position of the Parties

Complainant's Position:

[8] Page 1 of Exhibit C1 states: "The property is incorrectly assessed based on equity. The subject property is unique in the allocation of unit factors from the condominium plan. All units in the property have 1.5 unit factors per square meter of floor area except for the subject which has 4.38 unit factors per square meter of unit area. This dramatically affects the operating costs of this unit relative to the others. This unit pays 25.97% of all of the operating costs of the building, and special assessments but only owns 10% of the property. These units do not benefit from the elevator or parkade but must support 25% of those costs. Any prudent investor would discount the price he would pay to reflect these higher than typical costs."

[9] At the hearing, the Complainant did not address a list of 58 Cliff Bungalow condominium units that had sold between July 2010 and June 2012. This information, taken from the City of Calgary website, was contained in the Complainant's evidence disclosure.

Respondent's Position:

[10] The Respondent pointed out that the list of condominium sales in the Complainant's evidence was a list of residential unit sales whereas the subject is a commercial/retail unit.

[11] Since the issue for this complaint is equity, the Respondent provided assessment calculation information for four other condominium units in a similar building in the area. Each was assessed at \$288 per square foot. The Respondent acknowledged that there are no other similar units of comparable size to the subject in the market zone.

Complainant's Rebuttal:

[12] The Complainant provided data from the condominium plan for the equity comparables that were in the Respondent's evidence. This data showed that condominium unit factor calculations were similar for units 1, 2, 67, 68, 69 and 70. The calculation of unit factors is consistent at approximately 2.4 factor units per square meter of area regardless of whether the unit is residential or non-residential. This shows that the unit factor for the subject is not prepared on the same equitable basis to the factors for the other property. If the subject unit had its factor derived at the same rate, it would represent 14 percent of the total rather than the current 25.97 percent.

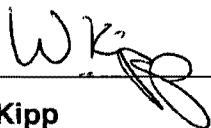
Board's Reasons for Decision:

[13] The Complainant's evidence indicates that the calculation of condominium unit factors is different for the subject than it is for the property from which the Respondent drew its equity comparables. It was suggested that the subject unit should have its unit factor calculated in a manner consistent with the factor derivation of other units in the building. There was an analysis of the comparable provided by the Respondent but that was not enough to convince the Board that a change was warranted.

[14] The Complainant was unable to explain the basis for the requested \$1,200,000 assessment. There was no evidence to show that the market value of the subject unit is diminished due to its unit factor calculation. There was no indication of the operating costs paid by the subject or by any of the other units in the building. There was no indication of normal operating costs for a retail condominium unit.

[15] The condominium plan states that unit factors for units 1 to 79 were proportionally based on area (at about 1.5 points per square meter). The subject unit 80 was assigned a unit factor of 2597. Units 81 to 107 (parking stalls) were each assigned a unit factor of 1. The condominium association deals with the allocation of unit factors. This Board has no jurisdiction to adjust factors. In order to warrant a reduction in the assessment, the onus is on the Complainant to convince the Board that the market value of the subject unit is lower than that of other, similar commercial condominium units. That was not done.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF September 2013.



W. Kipp

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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 Internal Use

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	RETAIL	UNIT OWNERSHIP	SALES APPROACH	COMPARABLES