



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:

CONDON FAMILY HOLDINGS LTD., COMPLAINANT
(as represented by Assessment Advisory Group Inc.)

and

The City Of Calgary, RESPONDENT

before:

BOARD CHAIR: P. COLGATE
BOARD MEMBER: Y. NESRY
BOARD MEMBER: D. MORICE

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: 067202903
LOCATION ADDRESS: 1602 14 STREET SW
FILE NUMBER: 71892
ASSESSMENT: \$1,470,000.00

This complaint was heard on 6th day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 2.

Appeared on behalf of the Complainant:

- *Doug Bowman, Assessment Advisory Group Inc.*

Appeared on behalf of the Respondent:

- *Margaret Byrne, 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.

Preliminary Matter:

[2] A preliminary matter arose from the Assessment Review Board Complaint form. The Complainant had indicated the matter that applied to the complaint was with respect to Matter 5 – An Assessment Sub-Class. The Complainant agreed the correct selection was Matter 3 – An Assessment Amount.

[3] The Board accepted the correction to the complaint form.

Property Description:

[4] The subject property contains a B Class retail structure, with four tenants, at 1602 14 Street SW in the community of Beltline. The structure, situated on a 0.14 acre parcel, has an assessable area of 4,000 square feet. The property is assessed using the Income Approach to Valuation.

Issues:

[5] The Complainant stated there were one issue in the complaint:

1. Market rents should be reflective of the actual rental rates for the property.

Complainant's Requested Value: \$1,170,000.00

Board's Decision:

[6] Based on the Board's decision for the issue stated, the Board found insufficient evidence to support the changes requested by the Complainant.

[7] The Board confirms the assessment at **\$1,470,000.00**

Legislative Authority, Requirements and Considerations:

[8] 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.

[9] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

Position of the Parties**Issue: Rental Rates for the Property.****Complainant's Position:**

[10] The Complainant argued the typical rental rates were higher than the actual rental rates in the subject property.

[11] The Complainant argued the leases were Gross leases and so the operating costs should be removed in order to obtain the net leases for the property, the requested rates of \$15.00 for the Fast Food space, \$21.00 for the Restaurant space and \$13.00 for the Retail space.

[12] The Complainant submitted rental table for the four tenants occupying the structure:

Tenant Name	Sub-Tenant	Leased Area	Owner Occupied	Lease Type	Month-to-Month Lease	Annual Rental Rate (Per Sq. Ft.)	Annual Operating Costs (Per Sq. Ft.)	Annual rental rate (Per Sq. Ft.) Less Operating Costs	Building Quality
Uptown Barber Shop	NO	500	NO	GROSS	YES	\$18	\$5.75	\$13	C
Matrioshka Pizza	NO	500	NO	GROSS	YES	\$18	\$5.75	\$13	
Sushi Moto	NO	2000	NO	GROSS	YES	\$21	\$5.75	\$15	
Ali Baba Kabob House	NO	1000	NO	GROSS	YES	\$27	\$5.75	\$21	

(C1, Pg. 15)

[13] The Complainant testified that in discussions with the owner the only operating costs were for property taxes and insurance. Based on the statement of the owner an operating cost of \$5.75 was determined for the property; however no evidence was submitted to support the claim.

[14] The Complainant submitted a revised income approach with a resulting value of \$1,170,640. (c1, Pg. 16)

Respondent's Position:

[15] The Respondent submitted the Assessment Request for Information (ARFI), which tended to support the rates and condition of leases in the subject property. There were some differences in the rental rates due to rounding to the nearest dollar amount. The Respondent noted the owner provided no operating cost information. (R1, Pg. 15-16)

[16] The Respondent submitted a table of the Beltline typical rental rates as determined through the analysis of the information, from the owners and managers, as provided on the ARFI returns.

CRU	Rental Rate
BL5	
B Class	\$22.00
Restaurant and Fast Food/Coffee Shop	
BL5	
B Class	\$23.00

[17] The typical rates had been applied to the subject property in accordance with the Municipal Government Act and the Matters Relating to Assessment and Taxation, Section 2.

ALBERTA REGULATION 220/2004

Municipal Government Act

MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION

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.

[18] The Respondent argued that based on the lack of supporting evidence for the requested rental rates and the operating costs the Complainant had not met the burden of proof to establish its case.

Board's Reasons for Decision:

[19] The Board found the Complainant failed to provide supporting documentation for the requested operating costs. Lacking the evidence to show the source of the costs the Board was forced to place little weight on the requested adjustment.

[20] The Board found the Complainant presented no evidence to show the subject property was not a typical property. The Board was provided with only evidence of lower gross rents, but failed to establish if this was a necessity for leasing or a management decision to maintain 100% occupancy.

[21] The Board found the Complainant failed to provide market or equity comparables to challenge the typical rental rates applied by the City of Calgary were incorrect for the Beltline 5 market zone.

[22] The Board found the Respondent was lacking in supporting evidence with either market leases or equity comparable evidence. Rather the Respondent relied more on the Complainant's failure to meet the burden of proof.

[23] For the reasons cited, the Decision of the Board was to confirm the assessment at \$1,470,000.00

DATED AT THE CITY OF CALGARY THIS 15 DAY OF August 2013.



PHILIP COLGATE
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Submission
2. R1	Respondent Submission

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	Retail	Strip Plaza	Income Approach	Market Rent

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

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- (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.