



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:

416566 ALBERTA LTD.

Complainant

and

THE CITY OF CALGARY

Respondent

before:

**T. Shandro, PRESIDING OFFICER
I. Fraser, BOARD MEMBER
M. E. Bruton, 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:	074004904
LOCATION ADDRESS:	5725 – 17 Avenue SE, Calgary, Alberta
FILE NUMBER:	71895
ASSESSMENT:	\$2,110,000

This complaint was heard on the 16th day of July, 2013, at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- D. Bowman, Agent, Assessment Advisory Group Inc.

Appeared on behalf of the Respondent:

- No one appeared on behalf of the Respondent

Procedural or Jurisdictional Matters

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

Property Description

[2] The subject property is assessed as an Automotive Services property located at 5725 – 17 Avenue SE, in the community described as Forest Lawn Industrial. There are three bays which are stated to be fully occupied by three tenants. The subject property is assessed as having 6,856 square feet ("SF") of space within the Auto Mechanical Repair sub-category and 2,556 SF of space within the Auto Quick Service category, all on a parcel size of 33,907 SF.

[3] The Board was advised by the Complainant that in 2012 the Respondent commenced stratifying Automotive Service properties with a new sub-category: "Auto Quick Service". This new sub-category is distinguished by service and repair spaces which have a drive-through capacity. That is, there are overhead doors on either side of the bay which allow a vehicle to drive in, receive the requested service, and then drive straight out.

- [4] For assessment purposes, the subject property is assessed as as having a quality of "B".

Issues

[5] In Section 4 of the Assessment Review Board Complaint form, filed March 4, 2013 (the "Complaint Form"), the following were marked:

- 1) Box 3, "an assessment amount"; and
- 2) Box 5, "an assessment subclass".

[6] At the hearing the Complainant advised that the latter was marked incorrectly and that this was not an issue for the Board to consider and withdrew any matter related to Box 5.

[7] In Exhibit C-1, the Complainant raised the following issue:

1. Should the market rental rate used in the Income Approach for the Auto Quick Service category be adjusted?

[8] The Complainant provided a Board decision from 2012, *Foothills Crossing Portfolio Inc. v. The City of Calgary*, CARB 1214/2012-P ("*Foothills*"), regarding the Auto Quick Service sub-

category, in which a different complainant challenged the creation of this sub-category.

[9] In this matter, the Complainant did not raise as an issue whether the City had the ability to create new sub-categories, nor did the Complainant challenge the creation of this particular sub-category.

[10] The Board will only hear the issues raised either in the evidence packages of the parties or at the hearing.

Complainant's Requested Value

[11] In the Complaint Form the Complainant requested a reduced assessment of \$1,950,000. At the hearing the Complainant amended the requested value to \$1,850,000.

Position of the Complainant

[12] The Complainant submitted that the rental rates used by the City of Calgary for Auto Quick Service properties, \$29.00/SF, is greater than the typical or market rents. The Complainant sought a reduction in the assessed rental rate to \$21.00/SF.

[13] The Complainant then provided the Complainant's own Income valuation Summary [p. 2, Exhibit C-1]. This calculation provided by the Complainant used the following information:

- 1) A rental rate of \$14.00 for the 6,856 SF of space assessed as Auto Mechanical Repair;
- 2) A rental rate of \$21.00/SF for the 2,556 SF of space assessed as Auto Quick Repair; and
- 3) A vacancy rate of 8.25%.

[14] In support of the Complainant's calculation, the Complainant provided the Complainant's response to the Respondent's Assessment Request for Information ("ARFI"), in which:

- 1) the 2,556 SF of space assessed as Auto Quick Service was leased at \$19.72/SF for a five-year term commencing 2008; and
- 2) the remaining space assessed at Auto Mechanical Repair was leased to two tenants with rates of \$16.00/SF (for a five-year term commencing 2008) and \$18.35/SF (for a one-year term commencing 2012).

[15] The Complainant further provided one comparable, located at 5260 – 17 Avenue SE. The Complainant provided the response to the Respondent's ARFI for this property, which alleges to have a rental rate of \$23.00/SF for the space assessed as Auto Quick Service [pp. 19 to 21, Exhibit C-1].

Position of the Respondent

[16] As the Respondent did not appear at the hearing, the Board reviewed the submitted materials. Within those materials, the Respondent argued that the Complainant's evidence had several concerns. First, the Complainant was relying on the Complainant's 2008 lease for the space assessed as Auto Quick Service, which was \$19.72. Second, the comparable provided by the Complainant at 5260 – 17 Avenue SW shows a rental rate of \$23/SF for a lease commencing August 1, 2011.

[17] The Respondent provided a rental rate analysis including three properties: one property was from Bow Trail SW, one from 16 Avenue NW, and the third was the comparable used by the Complainant [p. 25, Exhibit R-1]. The range of the three rentals rates was \$21.00 to \$39.10, with a mean rate of \$29.84 and a median of \$29.41.

[18] The Respondent further provided equity comparables from 17 Avenue SE: the Complainant's comparable, constructed in 1981 and assessed as a "C+" quality building; and a property located at 4314 – 17 Avenue SE, constructed in 1978 and assessed with a "C+" quality. Both were assessed with a rental rate of \$29.00/SF.

Board's Reasons for Decision

[19] In coming to its decision, the Board has considered all of the information provided by the parties. The paucity of information provided by the parties was a matter of concern for the Board.

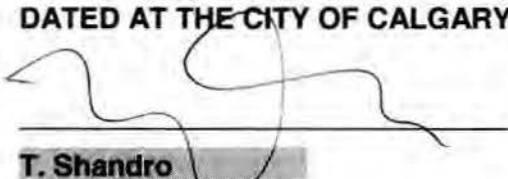
[20] The Respondent provided a rental analysis with three properties, two of which were from other quadrants of the City. Considering the concerns expressed by the Board at para. 19 of *Foothills*, the Board found the lack of further information from the Respondent to be disconcerting.

[21] The Complainant however also provided a limited amount of information, namely rental information for the subject party from 2008 and one comparable which itself was assessed at \$29.00/SF. The Complainant did not provide the assessment details of the comparable. These details can however be determined from the Respondent's written submissions [pp. 30 to 32, Exhibit R-1]. It appears from this information that the Complainant's comparable was assessed at \$29.00/SF for the space assessed at Auto Quick Service.

[22] The Board considered the rent information for the subject property with its stale age and finds that limited weight can be given to this information. The same lack of deference can be given to the comparable, which itself was assessed by the Respondent at \$29.00/SF. The Board finds this to be insufficient information to conclude that the assessed rental rate for Auto Quick Service at \$29.00/SF is greater than the market rents for these spaces.

[23] Pursuant to s. 467 of the Act, the Board must not alter any assessment which is fair and equitable. From the information provided, on a balance of probabilities, the Board cannot find that the assessment for the subject property is unfair or inequitable. The Board therefore confirms the assessment of \$2,110,000.

DATED AT THE CITY OF CALGARY THIS 16th DAY OF August, 2013.



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

At the hearing, the Complainant provided the Board and the Respondent with colour copies of some of the pages within C-1. The Respondent agreed that this was not new information and these documents were considered by the Board as a part of C-1.

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	Automotive	Income approach	Rental rate