



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

205987 Alberta Ltd.

(as represented by Assessment Advisory Group Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER

B. Jerchel, BOARD MEMBER

G. Milne, 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: 080073901

LOCATION ADDRESS: 615 17 Av SW

FILE NUMBER: 71947

ASSESSMENT: \$3,950,000

This complaint was heard July 11, 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, Assessment Advisory Group Inc. (AAG)*
- *T. Youn, AAG*

Appeared on behalf of the Respondent:

- *C. Chichak, City of Calgary Assessor*
- *C. Fox, City of Calgary Assessor*

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

[1] There were no preliminary matters.

Property Description:

[2] The subject property is assessed as a 1945 retail mixed use building in the community of Cliff Bungalow. The 7,550 square foot (sf) "B" quality improvement is situated on an 11,497 sf corner lot on 17th Av and 6th St SW. The property was assessed using the Income Approach.

Issues:

[3] Is the subject property classified correctly?

[4] Is the restaurant accurately classified as a restaurant ("A2" quality) or should it be classified as a fast food restaurant?

[5] Does limited parking affect the income of the property?

Complainant's Requested Value: \$2,370,000

Board's Decision:

[6] The Board confirms the assessment at \$3,950,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000 Section 460.1:

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

For the purposes of this hearing, the CARB will consider MGA Section 293(1)

In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

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.

and MRAT Section 4(1), which states that

The valuation standard for a parcel of land is

- (a) market value, or
- (b) the parcel is used for farming operations, agricultural use value.

Position of the Parties

Complainant's Position:

[7] Class: D. Bowman, AAG, speaking for the Complainant provided assessment documentation for comparable properties on 17th Av SW. One of the properties was adjacent to the subject and had a similarly shaped improvement and similar parking arrangement to the subject. The remainder were not on corner lots and had some street parking or parking in back. All the comparable properties were classified "C", with the applied rates for that classification. The Complainant requested that the subject be classified "C" for all components, resulting in the following rates: restaurant reduced from \$42/sf to \$24/sf, retail space reduced from \$30/sf to \$21/sf.

[8] The Complainant provided photographs of the subject and all comparable properties, and included interior photographs of the drycleaning establishment. He argued that the interior of the drycleaning establishment had a minimal finish, in keeping with a "C" class building.

[9] Parking: The Complainant argued that the parking area was arranged in such a way as to limit the number of spaces available to about 10. He said that this would work for picking up drycleaning or fast food, but was a difficult arrangement for the travel agency or any other possible business that might locate in the property. He suggested that this would reduce the income of the property but did not request a reduction based on this negative influence.

[10] Restaurant: The Complainant argued that the restaurant was incorrectly classified, and that it was a fast food service that should be classified as a "C" facility, as were the fast food facilities listed within the comparable properties. This would reduce the rate applied to the restaurant from \$42/sf for "A2" rating to "24/sf for "C" rating.

Respondent's Position:

[11] Class: The Respondent argued that the Complainant had presented comparables which were not similar to the subject property. The adjacent property had a high vacancy rate due to a historic stigma attached to it, and was deteriorating. The subject property had been renovated on the exterior in 1997 and had no vacancy. The remaining comparable properties had no off street parking in front. The Respondent also presented three additional comparable properties along 17th Av SW. Two of the properties were "B" class and one was "A" class. Two restaurants in the properties were rated "A2" and assessed at \$42/sf. The Respondent provided photographs and assessment documentation for all comparable properties in the City documentation.

[12] Parking: The Respondent argued that the subject property had ideal parking for the uses it housed, and that the parking and access were superior to most properties along 17th Av SW. Many of the comparable properties presented at the hearing showed parking on only the street.

[13] Restaurant: The Respondent stated that there was no differentiation made by the City between fast food restaurants and other restaurants. The restaurant in the subject building was assessed as an "A2" class based on the criteria provided by the City in R1, p55.

[14] Neither party provided photographs of the interiors of any of the restaurants discussed at the hearing. Both parties presented the 2012 Assessment Request for Information (ARFI) for the property, which showed that the drycleaning portion was owner-occupied and there was no vacancy.

Board's Reasons for Decision:

[15] Class: The Board found that limited evidence was presented to demonstrate that the subject property was incorrectly classified. The photographs of the exteriors of the buildings showed varying degrees of attractiveness, but did not demonstrate differences in quality. There was no other evidence available to demonstrate what the rating would be based on the indicators on the City's document R1, p55.

[16] Parking: The Board found the subject had good parking as compared to other properties in the area, and that access to the parking from two sides made access and egress convenient. The Board found that parking was not a limiting factor in the income potential of the subject property.

[17] Restaurant: The Board found that there was no evidence to change the classification of the restaurant within the subject property. There were no photographs of the interior of the building, and the income shown on the 2012 ARFI was low but within the parameters for the class. No conclusive decision could be made based on this evidence.

[18] For these reasons, the Board confirms the assessment.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF August 2013.



L. Yakimchuk

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.*

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Retail/Office	Low Rise	Income Approach	Lease Rate CAP Rate