

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:

856163 Alberta Ltd.

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

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER

A. Zindler, BOARD MEMBER

J. Rankin, 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: 445109606

LOCATION ADDRESS: 20 Country Hills Ld NW

FILE NUMBER: 72000

ASSESSMENT: \$2,640,000

This complaint was heard June 13, 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:

- *T. Youn, Assessment Advisory Group Inc. (AAG)*
- *D. Bowman, AAG*

Appeared on behalf of the Respondent:

- *Shelly Turner, Assessor, City of Calgary*
- *Vanessa LaValley, Assessor, City of Calgary*

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

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

Property Description:

- [2] The subject property, Beddington Bottle Depot, is assessed as a Retail Shopping Centre Strip comprised of four spaces: vacant 1700sf, office 1800sf, bottle depot 5900 sf and recreational facility 3500 sf. The property has been assessed using the income approach.

Issues:

- [3] Should the Bottle Depot, an unfinished space, be assessed at a lower rate than the finished retail areas?

Complainant's Requested Value: \$2,140,000

Board's Decision:

- [4] The Board confirms the City of Calgary assessment of \$2,640,000.

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:

[5] Mr. T. Youn, AAG, on behalf of the Complainant, argued that the Bottle Depot portion of the subject property is an unfinished space similar to a warehouse space. He stated that the Taekwondo portion of the property has a lower grade of finish than the office portion, but a higher one than the Bottle Depot, but the Bottle Depot is assessed at the same rate as the offices (\$16/sf).

[6] Mr. Youn supplied photos to support his argument (C1 pp19&20).

[7] Mr. Youn also presented a comparable, Markland Bottle Depot, which is leased at \$8/sf and assessed at \$14/sf.

[8] The Complainant argued that the City of Calgary's assessment is based on an ambiguous Assessment Request for Information (ARFI) entry which shows the annual rental rate for the Bottle Depot is \$20/sf. He stated that the property is rented by the owner and the agreement is not arm's length. In his rebuttal argument (C3), he included an email from the manager stating that the owner of the Bottle Depot and the owner of the subject property are the same person.

Respondent's Position:

[9] Ms. S. Turner, City of Calgary assessor, explained that the subject property had previously been assessed as an Industrial property, but the City had changed this rating to a retail property based on a property inspection.

[10] Ms. Turner stated that the Taekwondo gym was on an upper level and received a lower assessment rate because it was not on the main floor. She argued that the Markland comparable was Industrial and assessed at different rates for this reason.

[11] Concerning the ARFI ambiguity, the Respondent stated that there was a note attached to the ARFI indicating that the Assessment Offices had phoned the manager of the subject property and asked for clarification on the Beddington Bottle Depot Lease. The manager said the lease had been renewed for a 5 year term. He did not state that the lease was not arm's length.


Board's Reasons for Decision:

[12] The Board found that the Complainant did demonstrate that the Bottle Depot is inferior in finish to other retail tenancies in the subject property. The Board found no evidence of a retail category which would compensate for this difference.

[13] The Board found the claims concerning the ARFI could not be supported or disqualified and did not place weight on them in the evidence.

[14] The Board found the Respondent's evidence indicated that the current assessment is equitable with other comparable retail properties.

DATED AT THE CITY OF CALGARY THIS 12th DAY OF July 2013.



L. Yakimchuk

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. C3	Complainant Rebuttal
4. 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	Strip Plaza	Income Approach	Lease Rate