



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:

3333 SUNRIDGE WAY INC., COMPLAINANT
C/O AX PROPERTY MANAGEMENT L.P.
(as represented by Fairtax Realty Advocates Inc.)

and

The City Of Calgary, RESPONDENT

before:

BOARD CHAIR: P. COLGATE
BOARD MEMBER: P. PASK
BOARD MEMBER: J. MASSEY

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: 049015308
LOCATION ADDRESS: 3333 SUNRIDGE WAY NE
FILE NUMBER: 72034
ASSESSMENT: \$9,690,000.00

This complaint was heard on 23rd day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 8.

Appeared on behalf of the Complainant:

- *Syd Storey, Fairtax Realty Advocates Inc.*

Appeared on behalf of the Respondent:

- *Vanessa LaValley, 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] There being no preliminary matters, the Board moved to the merit hearing.

Property Description:

[3] The subject property contains an A- retail shopping centre at 3333 Sunridge Way NE in the community of Sunridge. The structure, situated on a 4.0 acre parcel, has an assessable area of 51,001 square feet, separated into two units, a Junior Big Box store of 40,035 square feet and a Commercial Retail Unit of 10,966 square feet. A Home Outfitters and a Stir Crazy Family Fun Centre, respectively occupy the units.

Issues:

[4] The Complainant stated there was one issue in the complaint:

1. Market rent should be \$13.00 for the CRU space.

Complainant's Requested Value: \$8,819,034.00

Board's Decision:

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

[6] The Board confirms the assessment at \$9,690,000.00

Legislative Authority, Requirements and Considerations:

[7] 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.

[8] 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 Market Rent for CRU space****Complainant's Position:**

[9] The Complainant argued the CRU rental rate should be at \$13.00 per square foot, as opposed to the current rate of \$19.00 per square foot.

[10] The Complainant submitted the July 01, 2012 rent roll into evidence in support of the request, with reference to the lease of the subject property's CRU space, commencing August 1, 2010 at a rate of \$12.00 per square foot. The lease escalated August 1, 2012 to the requested rental rate of \$13.00 per square foot. (C1, Pg. 3-4)

Respondent's Position:

[11] The Respondent submitted three lease comparables into evidence, which reflected a median lease value of \$19.00 per square foot, the rate used for the CRU spaces of 6,001 to 14,000 square feet.

Address	Quality	Lease Area (sq.ft.)	Lease Date	Lease Rate (psf.)	Term (years)
3221 Sunridge Way NE	A-	7,003	09/01/2011	\$21.00	5
3221 Sunridge Way NE	A-	7,010	09/30/2011	\$19.00	5
3333 Sunridge Way NE (Subject)	A-	10,966	08/01/2010	\$12.00	5
			Median	\$19.00	
			Assessed Rate	\$19.00	

(R1, Pg. 21)

[12] The Respondent submitted an equity comparables chart of two CRU spaces 6,001 to 14,000 square feet spaces.

Address	Quality	Lease Area (sq. ft.)	Lease Rate (psf.)
3221 Sunridge Way NE	A-	7,003	\$19.00
3222 Sunridge Way NE	A-	7,010	\$19.00

(R1, Pg. 23)

Board's Reasons for Decision:

[13] The Complainant, with only one lease in the analysis period, did not persuade the Board. The Board found this one lease, actually negotiated in 2010, was insufficient justification to change the office rental rate. This decision is in line with LARB 0325/2011-B which set the principle that one lease is insufficient to establish a typical rental value. (LARB 0325/2011, Pg.6)

[14] The Board found the Complainant's failure to provide market or equity comparables did not help the argument it was putting before the Board.

[15] The Board found the Respondent's evidence, while more convincing, having provided two additional leases, contained an obvious flaw. The lease analysis used a statistical analysis of median when only three leases were presented. With three leases, a median analysis has little significance as solid justification for the rate employed. A more significant result would have been obtained using a weighted mean to determine a rental rate.

[16] The Decision of the Board was to confirm the assessment at **\$9,690,000.00**

DATED AT THE CITY OF CALGARY THIS 11th DAY OF September 2013.

**PHILIP COLGATE****Presiding Officer**

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

NO.	ITEM
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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	Neighbourhood Mall	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

- (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.

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.