



## **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:**

***Alberta Housing Corporation***  
***(as represented by AEC Property Tax Solutions), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***C. J. Griffin, PRESIDING OFFICER***  
***R. Cochrane, BOARD MEMBER***  
***M. E. Bruton, BOARD MEMBER***

This is a complaint to the Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

<b>ROLL NUMBER(S):</b>	<b>087037404</b>
<b>LOCATION ADDRESS:</b>	<b>240 Lincoln Way SW</b>
<b>FILE NUMBER:</b>	<b>72131</b>
<b>ASSESSMENT:</b>	<b>\$10,490,000.</b>

This complaint was heard on the 16<sup>th</sup> day of September, 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:

- N. Laird
- S. Rickard

Appeared on behalf of the Respondent:

- H. Yau
- J. Young

**Board's Decision in Respect of Procedural Matters:**

The Complainant advised the CARB that his brief relating to the Complaint to be heard by the CARB also pertains to forty-eight (48) additional files all of which are similar properties and all of which share the same issue(s) to be presented herein. The Complainant explained that all of the evidence and argument presented for this Hearing is also applicable to the other forty-eight files hence only one brief will be presented to represent all forty-nine Complaints. Accordingly the Complainant requested that the CARB carry forward all of the evidence and argument to be presented herein and apply same to the ensuing Complaint Hearings. The Respondent also advised the CARB that they had also prepared only one defence brief to deal with all of the properties, accordingly they agreed with the proposal of the Complainant that all of the Complaints be heard as one.

The CARB agreed with this proposal and accordingly the Complaint evidence and argument, from both parties, will be applicable to all of the following files:

72131 (subject) / 72149 / 72155 / 72158 / 72167 / 72171 / 72172 / 72175 / 72179 / 72187 / 72193 / 72229 / 72231 / 72232 / 72235 / 72284 / 72292 / 72301 / 72314 / 72315 / 72316 / 72328 / 72346 / 72347 / 72348 / 73729 / 73732 / 73737 / 73741 / 73743 / 73747 / 73749 / 73751 / 73752 / 73754 / 73756 / 73757 / 73759 / 73760 / 73761 / 73762 / 73763 / 73764 / 73765 / 73766 / 73767 and 73768. (Note: two files #72350 and 72351 were withdrawn at the Hearing by the Complainant)

**Board's Decision in Respect of Preliminary Matters:**

The Respondent advised the CARB that the Rebuttal brief of the Complainant had not been received by the Respondent within the time allowances outlined in the Matters Relating to Assessment Complaints Regulation (MRAC) Section 8(2)(c). The Complainant advised that he was aware that his Rebuttal brief had been submitted one day late.

In accordance with MRAC Section 9(2) the CARB must not hear any evidence that has not been disclosed in accordance with Section 8. Accordingly the CARB will not hear the Rebuttal evidence of the Complainant.

**Property Description:**

[1] The properties being addressed herein consist of 36 low-rise and 13 hi-rise Seniors Residences with various location throughout the city of Calgary.

**Issue(s):**

[2] The Complainant introduced two issues (Exhibit C-1 pg. 5) for the CARB's consideration and they are:

A) The assessed Gross Income Multiplier employed by the Assessor in valuing the subject properties is too high and results in values that are not representative of Market Value.

B) The assessed value(s) of the vacant land component do not reflect the discount for seniors residences as having been applied.

The second issue B) above pertains to two properties only and both of these have been withdrawn by the Complainant. Accordingly the CARB will deal with one issue A) above, only.

**Current Assessment:**

[3] \$10,490,000. (truncated)

**Complainant's Requested Value:**

[4] \$ 8,810,000. (truncated)

**Board's Decision:**

[5] The assessment is **confirmed** at:

\$ 10,490,000.

**Position of the Parties****Complainant's Position:**

[6] The Complainant explained to the CARB that in assessing the subject properties, the Assessor applies an 18% discount to the market based *Gross Income Multiplier* (GIM) applied to the estimated *Effective Gross Income* (EGI) of each property. The Complainant acknowledges that the assessments under complaint have in fact been subjected to the aforementioned 18% discount; however, the Complainant's issue deals with the GIM established by the Assessor prior to application of any discount. The Complainant submitted (Exhibit C-1 pgs. 9 & 10) a summary of the assessed values for all forty-seven (47) properties under complaint, segregated into the high-rise category (13 properties) and low-rise category (34 properties) which, among other things, provides the *unadjusted* GIM utilized by the Assessor and the adjusted GIM as well as the requested *unadjusted* GIM and the adjusted requested GIM. The *unadjusted* GIMs employed by the Assessor in the high-rise category are 12.5, 13 (one property only), and 13.25. The *unadjusted* GIMs employed by the Assessor in the low-rise category are 11.5 (one property only), 13 or 15.75 (four properties only). The Complainant requests an *unadjusted* GIM of 10.5 for the high-rise category of properties and 11.5 or 14 (three properties only) for the low-rise category of properties

[7] In support of their requested *unadjusted* GIMs the Complainant introduced (Exhibit C-1 pgs. 87 & 88) a summary of 54 sales (9 high-rise & 45 low-rise) recorded between July 9, 2009 and June 29, 2012 for which the Complainant has estimated the EGI and determined the resulting GIM (unadjusted) from the indicated selling price. The indicated Mean GIM (unadjusted) for the high-rise category is 10.06 and the Median is 10.10 while the indicated Mean GIM (unadjusted) for the low-rise category is 10.39 and the Median is 10.31 (Exhibit C-1 pg. 88). The Complainant then went on to explain how the rents utilized to establish the gross income for each of the sale properties was determined. The rental data was extracted from web based offers to rent (Exhibit C-1 pgs. 168 – 309).

#### **Respondent's Position:**

[8] At this point in the Hearing the Respondent brought forward a motion that the Complainant had not met the requirements of their *Burden of Proof*, specifically their initial onus and requested the CARB to make a decision pertaining to same as this would determine if the Respondent need submit his brief to defend the assessments. The Respondent also pointed out to the CARB that they had forewarned the Complainant in advance of the Hearing that they would be making such a motion.

#### **Board's Decision on the Burden of Proof:**

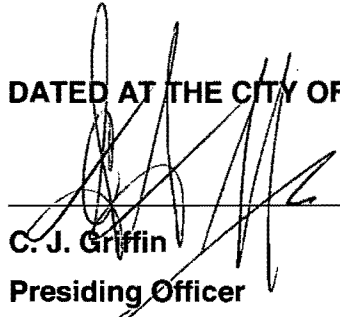
[9] The *Burden of Proof* refers to a party's duty to prove a disputed assertion or charge. The *Burden of Proof* includes both the *Burden of Persuasion* and the *Burden of Production* (*Black's Law Dictionary*). The *Burden of Persuasion* refers to a party's duty to convince the fact-finder to view the facts in a way that favors (sic) that party. The *Burden of Production* refers to a party's duty to introduce enough evidence on an issue to have the issue decided by the fact-finder, rather than decided against the party in a peremptory ruling (*Ibid*). In consideration of the foregoing the CARB assessed the evidence put forward by the Complainant and determined that 1) no time adjustments had been applied by the Complainant to any of the sales utilized for the purposes of deriving a GIM even though some of these sales date back to 2009 and 2) the Complainant employed 2013 dated offers to rent, not actual rent rolls, or similar, to estimate the gross income for those same sales and 3) the Complainant provided no basis to support the vacancy rates they applied to those gross income estimates to derive the EGIs. Based upon these facts the CARB agrees with the Respondent that the Complainant has failed in their duty to meet their initial onus by failing to provide sufficient evidence to convince the CARB that a reasonable Complaint had been put forward. Accordingly the assessments for the subject property, **as well as the ensuing Complaints outlined herein under the heading Procedural Matters, are confirmed.** Specifically, for this property owner, the assessments of the following roll numbered properties are **confirmed**.

<b>CARB File</b>	<b>Roll Number</b>	<b>Property Address</b>	<b>Confirmed Assessment</b>
72131	087037404	240 Lincoln Way SW	\$ 10,490,000.
72149	201645546	40 – 11A Street NE	\$ 15,370,000.
72155	103064903	2040 – 54 Avenue SW	\$ 2,540,000.
72158	123189805	240 – 92 Avenue SE	\$ 10,870,000.

CARB File	Roll Number	Property Address	Confirmed Assessment
72171	046059192	120 – 18 Avenue NE	\$ 3,270,000
72172	046240297	255 – 17 Avenue NE	\$ 4,420,000.
72175	123119711	8847 Fairmount Dr. SE	\$ 3,220,000.
72179	018005306	11 Varsity Estates Vw. NW	\$ 11,840,000.
72187	060112596	520 – 34 Street NW	\$ 4,090,000.
72193	065080905	3400 Spruce Dr. SW	\$ 4,770,000.
72229	087018115	3712 – 37 Street SW	\$ 3,310,000.
72231	082171000	2637 – 25 Street SW	\$ 2,980,000
72232	082192709	2808 – 25 Street SW	\$ 3,420,000.
72235	102088002	602 – 57 Avenue SW	\$ 6,420,000.
72292	111179701	1111 – 68 Avenue SW	\$ 5,570,000.
72301	067188508	1506 – 9 Street SW	\$ 7,060,000.
72314	069043008	1401 – 11 Avenue SE	\$ 515,500.
72315	069101202	1320 – 8 Avenue SE	\$ 2,240,000.
72316	078024205	923 – 19 Avenue SE	\$ 497,000.
72328	080008899	1720 – 9A Street SW	\$ 5,560,000.
72346	069105013	1020 Bow Valley Dr. NE	\$ 1,480,000.
72347	081097404	1818 – 28 Avenue SW	\$ 696,500.
72348	082085796	1923 – 33 Street SW	\$ 6,290,000.
73729	068021096	200 – 1 Street SW	\$ 16,500,000.
73732	069017606	906 – 17 Avenue SE	\$ 2,160,000.
73741	068135409	1220 – 2 Street SW	\$ 10,620,000.
73751	051140317	3003 – 56 Street NE	\$ 6,830,000.
73754	046027504	207 – 21 Avenue NE	\$ 1,150,000.
73757	059010397	2406 – 2 Avenue NW	\$ 6,200,000.
73759	020036000	1540 Northmount Dr. NW	\$ 9,380,000.
73760	059012096	2403 – 2 Avenue NW	\$ 3,350,000.
73761	045241502	1234 – 21 Avenue NW	\$ 9,570,000.
73762	044048106	1633 – 20 Avenue NW	\$ 702,500.
73763	068181106	124 – 15 Avenue SE	\$ 13,770,000.
73764	042115816	2003 – 46 Street NW	\$ 1,890,000.
73765	067166199	1028 – 15 Avenue SW	\$ 11,050,000.

CARB File	Roll Number	Property Address	Confirmed Assessment
73766	034193102	400 – 40 Avenue NW	\$ 11,410,000.
73768	022162507	4811 Niven Road NW	\$ 5,160,000.

DATED AT THE CITY OF CALGARY THIS 22<sup>nd</sup> DAY OF October 2013.



C. J. Griffin

Presiding Officer

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

Municipality: Calgary	Decision No. 72131/P-2013	Roll No: Numerous	
<b><u>Property Type</u></b>	<b><u>Property Sub-Type</u></b>	<b><u>Issue</u></b>	<b><u>Sub-Issue</u></b>
Seniors Residences	Hi-Rise & Low-Rise	M.V.	GIM