



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:

W.W.K. Holdings Ltd. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Weleschuk, PRESIDING OFFICER

J. Kerrison, BOARD MEMBER

D. Morice, 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: | 072047905 |
| LOCATION ADDRESS: | 4314 17 Avenue SE |
| FILE NUMBER: | 72772 |
| ASSESSMENT: | \$659,500 |

This complaint was heard on 24th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *K. Fong*

Appeared on behalf of the Respondent:

- *C. Yee*

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

- [1] The Board noted that their file included a completed copy of the Assessment Review Board Complaint form and an Assessment Complaints Agent Authorization form.
- [2] Neither party objected to the members of the Board, as introduced, hearing the evidence and making a decision regarding this assessment complaint.
- [3] No preliminary issues were raised by either party.

Property Description:

- [4] The subject property is located on a corner lot at 4314 17 Avenue SE, in the Forest Lawn District. It is a 5,692 square foot (SF) commercial property with a 2,614 SF improvement built in 1978. The main level of the building is 1,760 SF, with an 854 SF lower level used for storage. The property is leased by a tenant who operates a "Minute Lube" on the property. The building consists of two drive-through bays, and a small office. For assessment purposes, the 1,760 SF of main level space is classified as "auto quick service". The 2013 assessment is \$659,500 derived using the Income Approach (rental rate of \$29.00/SF for auto quick service area and \$2.00/SF for storage area, vacancy rate of 8.25% for both area types, operating costs of \$8.00/SF for both area types, non-recoverable costs of 1\$ for both area types and a capitalization rate of 7.00%).

Issues:

- [5] What is the correct assessment of value? The Complainant only disputed the following:
 1. What is the correct rental rate for the "auto quick service" sub-category?

Complainant's Requested Value: \$310,000

Board's Decision:

- [6] The Board reduces the 2013 Assessment to \$408,000.

Legislative Authority:

- [7] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

Issue 1: What is the correct rental rate for the auto quick service sub-category?

Complainant's Position:

- [8] The Complainant stated that the assessed rental rate of \$29.00/SF for the 1,750 SF of building on the main level is too high. The Complainant argued that the City applied a rental rate of \$14.00/SF to auto repair space in the 2013 assessment calculation. The City's table showing the basis of this rental rate is presented on page 29-30, Exhibit C1. The Complainant identified five rental comparables on the City's table located along 17th Avenue SE and stated that the \$14.00/SF rental rate used by the City is appropriate for auto repair space along 17th Avenue SE. The Complainant did not dispute the rental rate of \$2.00/SF applied to the 854 SF of storage space on the lower level.
- [9] On page 31-42 of Exhibit C1, the Complainant presented information for the five rental comparables located along 17th Avenue SE, showing that the "auto mechanical repair" portion of these properties were assessed at \$14.00/SF. Therefore, to maintain equity between the subject property and its competitors, a rate of \$14.00/SF is indicated.
- [10] The Complainant presented one page from an Assessment Request for Information (ARFI) form for the subject property showing that the subject lease was renewed on September 30, 2012 at a rate of \$15.25/SF for 1,760 SF of main level space. The tenant occupies the lower level but does not apparently pay any rent for this space. The Complainant acknowledged that the lease was *post facto* in that it came into effect after the July 1, 2012 valuation date, but stated that the Board could rely on this information for trending purposes or to confirm that the requested \$14.00/SF rental rate reflects the current market.

- [11] The Complainant acknowledged that the business model for a drive-through oil change operation is somewhat different than the business model for a more typical auto repair facility, but reminded the Board that the purpose of an assessment is to reflect the fee simple market value of the property, not the leased fee value. The Complainant dismissed the idea that having two doors on a bay (drive-through bay) would double the value of the property.
- [12] Exhibit C1 included information related to the capitalization. The Complainant stated that the capitalization rate was not an issue in this hearing, therefore no evidence or argument related to capitalization rate was presented.

Respondent's Position:

- [13] The Respondent stated that for assessment purposes, the City applies a sub-classification to its retail automotive repair category, distinguishing between automotive repair properties with drive-through bays (auto quick service) from the more typical auto repair facilities (auto mechanical repair). Based on an analysis of rental information, the City applies a different rental rates to each of these sub-categories. The photographs presented in both Exhibit C1 and R1 demonstrate that the property is a quick service, drive-through oil change facility, therefore is correctly in the "auto quick service" sub-category. The Respondent noted that the evidence presented by the Complainant applies to the rental rate for the auto mechanical repair sub-category, which is not the subject property's sub-categorized.
- [14] The Respondent presented a summary table of the 2013 auto quick service rental rate analysis (page 260, Exhibit R1). This analysis consisted of three rental comparables, including one located on 17th Avenue SE, and is the basis of the \$29.00/SF rental rate applied to auto quick service space across the City. The Respondent stated that the City typically uses two years of rental data in its rent rate analysis and could not explain why one of the three rent comparables in this table was older than two years (April 2010). In response to questions, the Respondent stated that this was apparently all the data that the City had related to rental rates for the auto quick service sub-category, but could not explain why the sample size was so small.
- [15] Two equity comparables were presented on page 261 Exhibit R1 showing that two similar properties located along 17th Avenue SE categorized as auto quick service space were assessed at a rate of \$29.00/SF. One of these properties, located at 5725 17 Avenue SE was also used by the Respondent as an equity comparable (page 31-33 in Exhibit C1 and page 262-263 in Exhibit R1) and apparently leased in July 2012 for \$18.35/SF (page 29, Exhibit C1). This property has both auto quick service and auto mechanical repair space.
- [16] In argument, the Respondent stated that the requested assessment is less than the Sales (land only) value of \$568,029. The City bases its assessment on either the Income Approach or the Sales (land only) Approach, whichever is greater. No evidence was presented to support the Sales (land only) value.

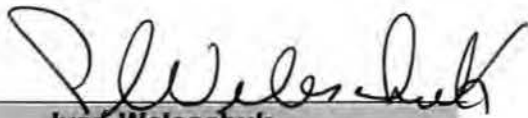
Findings of the Board on this Issue:

- [17] The Board acknowledges that the City can categorize properties into various classes for assessment purpose. Presumably such sub-categories result in assessments that better reflect market value, and are based on market evidence. The use of the auto quick service category is not in dispute. None of the other factors used by the City in the 2013 Income Approach assessment calculation, other than the rental rate, are in dispute.
- [18] The Board notes no sales evidence was presented by either party, therefore the Board has no evidence to determine whether the assessed value or the requested value better reflects market value. The Board therefore has to consider the evidence presented to determine what rental rate evidence best reflects the market, and apply that to derive a value.
- [19] The Board is troubled by the lease analysis presented by the Respondent. The number of lease comparables used to support the auto quick service rental rate is very small (three). Furthermore, one of the lease comparables is older than the two year window typically used by the City for rental rate analysis, and is much higher than the other two lease comparables. If this dated lease comparable (3807 Bow Trail NW) is eliminated, the remaining data (two comparables) does not support the \$29.00/SF rental rate used by the City for the auto quick service category.
- [20] One of the Respondent's lease comparables is located at 5260 17 Avenue SE and leased in August 2011 for \$21.00/SF. The subject lease was renewed in September 2012, and the Board also considers it a good indicator for market rent as of July 2012 (\$15.25/SF for the main level on a five year term). The Board considers these two leases as the best evidence of market rental rates for the subject property. The mean and median of these two sales is \$15.00/SF (truncated).
- [21] The Board applied the \$15.00/SF rental rate to the Non-Residential Properties-Income Approach Valuation (page 12-13, Exhibit R1), keeping all other factors the same as they were not in dispute, to arrive at an assessed value of \$408,000 (truncated).
- [22] The Board notes the uncertainty related to the presentation of the lease comparable located at 5725 17 Avenue SE (neither party was familiar with the property so could not respond to questions from the Board related to characteristics of the property or the lease details). This is a newer building (1992) than the subject (1978) and it apparently leased in July 2012 for \$18.35/SF. Because of the uncertainty related to this property, it is considered by the Board only as supporting evidence for the \$15.00/SF rental rate determined by the Board.
- [23] Regarding equity, the Board notes that equity comparables were presented by both parties only to address the rental rates applied to various types of auto repair space. None of the equity comparables were presented to address the market value of the subject property.

Board's Reasons for Its Decision

- [24] The Board concludes that the rental rate analysis done by the City for the 2013 auto quick service sub-category does not support the \$29.00/SF rental rate used in the assessment calculation. After considering the small number of rental comparables presented, the Board relied on two lease comparables (both located along 17 Avenue SE) to determine that the appropriate rental rate for the subject property is \$15.00/SF. Applying the \$15.00/SF rental rate, the Board concludes that the 2013 assessment be reduced to \$408,000.

DATED AT THE CITY OF CALGARY THIS 28th DAY OF August 2013.



Ivan Weleschuk

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.*

For MGB Administrative Use Only

| Subject | Type | Sub-Type | Issue | Sub-Issue |
|----------------|-------------|-----------------|-----------------|------------------|
| CARB | Retail | Stand Alone | Income Approach | Rental rates |