

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:

7-Eleven Canada Inc. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

P. McKenna, BOARD MEMBER

A. Zindler, BOARD MEMBER

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

ROLL NUMBER	LOCATION ADDRESS	FILE NUMBER	ASSESSMENT
440040400	150 CITADEL WY NW	72916	\$1,960,000
151060902	3455 DOUGLASDALE BV SE	72950	\$2,520,000
176057701	407 HAWKWOOD BV NW	72957	\$1,730,000

This complaint was heard on the 8th day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6

Appeared on behalf of the Complainant:

- A. Izard (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- T. Johnson (City of Calgary)
- A. Hendrata (City of Calgary)
- J.S. Villeneuve (observing)

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

- [1] There were no concerns with the board as constituted.
- [2] Both parties have visited the sites.
- [3] The parties have discussed the files.
- [4] It was agreed that File #72916, File #72950 and File #72957 would be heard together as they are similar properties with the same owner, and the evidence and arguments are the same.

Property Description:

- [5] The subject properties are Freestanding Convenience Store Gas Bars, located on their own separately titled parcels and assessed using the Cost Approach to value, as follows:

Address	Assessable Land Area (acres)	Quality	Year of Construction
150 CITADEL WY NW	0.80	B	2000
3455 DOUGLASDALE BV SE	1.15	B	1999
407 HAWKWOOD BV NW	0.66	B	2003

Issues:

- [6] An "assessment amount" and "an assessment class" were identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely: "the assessed value is incorrect".

ADDRESS	REQUESTED VALUE	BOARD'S DECISION
150 CITADEL WY NW	\$1,240,000	\$1,960,000
3455 DOUGLASDALE BV SE	\$1,230,000	\$2,520,000
407 HAWKWOOD BV NW	\$1,240,000	\$1,730,000

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).

MGA requires that:

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) requires that:

- 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.
- 4(1) The valuation standard for a parcel of land is
- (a) market value; or
 - (b) if the parcel is used for farming operations, agricultural use value.

Board's Decision in Respect of Each Matter or Issue:

Issue: What is the market value for assessment purposes?

Complainant's Position:

[7] The Complainant's Disclosure is labelled C-1.

[8] The Complainant submitted that the majority of Gas Bars are assessed using the Income Approach to value, with typical income being applied depending on the combination of other services that accompany the Gas Bar. For the 2013 assessment the City is applying typical income as follows:

Gas Bar < 1,000 sf	\$45,000
Gas Bar plus Convenience Store	\$95,000
Gas Bar plus Convenience Store plus Carwash	\$105,000
Separate Carwash	\$10,000

[9] The Complainant submitted that to achieve an assessment of \$1,960,000 (if the Income Approach to value were utilized), would require an income of \$150,000. The Complainant submitted the use of the Cost Approach creates an inequity between Gas Bars in the City, as many Gas Bars are assessed using the Income Approach to value.

[10] The Complainant submitted that the Cost Approach is generally utilized for special purpose properties, or where market evidence is unavailable.

[11] The Complainant, at page 23, provided a table that was prepared by the City of Calgary titled, 2013 Auto Convenience Store with Gas Bar Rental Rate Analysis (1,000+SF). The table contains details of 10 leases with start dates ranging from January 18, 2010 to July 12, 2011. Annual lease rental rates range from \$60,322 to \$129,000. The median annual lease rental rate is \$100,248 and the mean annual lease rental rate is \$95,412. The Complainant noted that the City applies an income of \$95,000 when it uses the Income Approach, for assessment purposes.

[12] The Complainant, at page 37, provided a table titled, 2013 Market Leasing Information (updating information), which recreates the City of Calgary table (10 leases) and provides 5 additional leases to demonstrate that market information exists.

[13] The Complainant, at page 38, provided a table titled, Service Station Market Data. The table contains the 15 leases, as noted above, plus an additional 24 leases, as further evidence that market data exists.

[14] The Complainant requested that the assessment be prepared using the Income Approach to value with an assigned Potential Gross Income (PGI) of \$95,000 and typical values for vacancy allowance, operating cost allowance and capitalization rate.

Respondent's Position:

[15] The Respondent's Disclosure is labelled R-1.

[16] The Respondent submitted that for "Freestanding" Gas Bars the Cost Approach to value provides the best estimate of market value.

[17] The Respondent, at page 12, provided the Property Assessment Detail Report, noting the subject is assessed using the Cost Approach to value.

[18] The Respondent, at page 13, provided the 2013 Assessment Explanation Supplement noting the Marshall and Swift Improvement Value is \$490,387 and the Land value is \$1,474,697, which results in a market value of \$1,965,084 and an assessed value of \$1,960,000.

[19] The Respondent, at page 36, provided a table titled, 2013 Commercial Land Values to demonstrate how the land value was calculated for C-N lands.

[20] The Respondent, at pages 96 through 139, provided Property Assessment Summary Reports for a number of properties, to demonstrate that Freestanding Gas Bars are assessed using the Cost Approach, while Gas Bars on Strip Centres are assessed using the Income Approach.

[21] The Respondent, at page 142, provided a table titled, City Market Evidence in Response to Altus Income Approach, to demonstrate, by way of example, that using the Cost Approach yields a better result when the Assessment to Sale Ratios (ASR) are compared.

[22] The Respondent, at page 186, noted that the Detailed Assessment Audit Manual "outlines what is expected of the municipality and may be used as a guide for any other matters related to assessment (such as complaints)". In addition, the Property Assessment in Alberta Handbook sets out preferred approaches to value for selected property types and states "best practice is a required standard". Further, "the assessor is expected to apply the preferred valuation approach required by best practice." Finally, "the preferred approach for gas stations is specified as the cost approach."

[23] The Respondent, at page 240, provided an excerpt from the Draft Detailed Assessment Audit Manual, dated December 2004, noting that the recommended primary approach to value Gas stations is the Cost approach, as it is required by best practice.

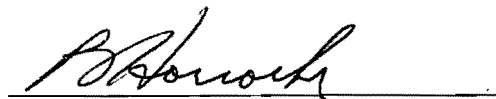
Board's Reasons for Decision:

[24] The Act does not specify which approach to use. Both approaches should tend to support each other, which in this case, they do not. The Board finds the two approaches produce dramatically different estimates of market value. The Complainant has failed to prove that the assessment is not correct.

[25] The Board finds the Respondent's evidence more compelling. Gas Bars are income producing properties, but they do not trade frequently on the market. The Income Approach requires reliable or meaningful income and expense data. Here the Board finds there is no reliable market information for the other factors used in the Income Approach, such as operating costs, vacancy and capitalization rate. It is inappropriate to take the components of value from one set of properties (for example, strip centre gas stations) and apply them to a different set of properties (for example, freestanding gas bars) as the Complainant has done..

[26] The 2013 assessments are confirmed.

DATED AT THE CITY OF CALGARY THIS 14th DAY OF November 2013.



B. Horrocks

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Appendix

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.*

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Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Freestanding Gas Bar	Market value	Income vs Cost Approach