



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:

Bowness Modern Developments Ltd. (as represented by Altus Group Ltd.) COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Board Chair; J. Zezulka
Board Member; M. Grace
Board Member; K. Bickford

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: 040022303

LOCATION ADDRESS: 28, 7930 - Bowness Road NW

FILE NUMBER: 73425

ASSESSMENT: \$2,940,000

This complaint was heard on 15 day of October, 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:

- *D. Hamilton*

Appeared on behalf of the Respondent:

- *T. Johnson*

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

- (1) There were no procedural or jurisdictional matters raised by either party.
- (2) As a preliminary matter, the Respondent informed the Board that the original assessment was based on an incorrect size. The property was originally assessed on the basis of 13,316 S.F. whereas the correct size was agreed to by the parties to be 11,950 s.f. As a result of the amended size, the assessment decreases to \$2,640,000. This amount was recommended to the Board by the Respondent.

Property Description:

- (3) The property consists of an 11,950 s.f., single storey strip shopping centre located in the Bowness district in northwest Calgary. The quality rating applied by the City is class "C". The building was built in 1956.

Issues / Appeal Objectives

- (4) The subject is currently being assessed using the income approach. The Complainant does not dispute the valuation method. The Complainant agrees with all of the inputs utilized by the Respondent in the capitalization calculations except for the rents. The Respondent has utilized a rental rate of \$17.00 per s.f. for CRU space of less than 1,000 s.f., and \$16.00 per s.f. for space in the 1,001 to 2,500 s.f. category. The Complainant argues that the property is unique and actual rents should be used in the income calculations.

Complainant's Requested Value:

- (5) \$1,770,000, amended to \$2,380,000 at the hearing.

Board's Decision:

- (6) The assessment is reduced to the Respondent's recommended assessment of \$2,640,000.

Legislative Authority, Requirements and Considerations:

(7) This Board derives its authority from section 460.1(2) of the Municipal Government Act, being Chapter M-26 of the revised statutes of Alberta.

(8) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAC), states as follows;

"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"

(9) Section 467(3) of the Municipal Government Act states;

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(c) the assessments of similar property or businesses in the same municipality."

(10) For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.

Position/Evidence of the Parties**Evidence**

(11) The Board notes that the initial assessment increased from \$2,300,000 in 2012, to \$2,940,000 in 2013, an increase of 27.8 per cent.

(12) The Complainant argued that the subject property is unique because it has no exclusive parking available. Parking is by way of street front or public parking. He also argues that the property was old and in need of renovations. As a result of these two aspects, he argues that the typical rents used by the City for the assessment of class "C" shopping centres are not appropriate.

(13) The Assessment Request for Information Form (ARFI), was submitted by the Complainant (CI, pages 17 to 19). The ARFI was dated April 7, 2010. The document showed rents ranging from \$5.45 to \$18.13 per s.f. gross (C1, pages 16 to 19).

(14) The Complainant also argued that, as a result of the subject's unique situation, actual expenses should be used in the valuation process. Based on information submitted by the owner, the Complainant estimated operating costs at \$4.17 per s.f. Except for the owner's notes, the Complainant offered no supporting evidence for the operating costs submitted.

(16) In his income calculations, the Complainant deducted the \$4.17 per s.f. owner's operating costs from the actual rents to arrive at a median net rent of \$10.75 per s.f., which the Complainant adopted in the income calculations.

(17) The Respondent argued that the subject is not unique, because there is ample parking available in a public lot across the street.

(18) The Respondent also submitted a more current ARFI for the subject (RI, pages 22 to 24). This document was dated August 15, 2012. Within the document, there are three relatively current leases at \$18.46, \$17.36, and \$23.50 per s.f. gross.

(19) In support of the typical rents used in the assessment, the Respondent presented 14 lease comparables for CRU space in the zero to 1,000 s.f. category, (R1, page 30). The comparables are from four different properties. Rents range from \$12.00 to \$19.00 per s.f. The mean and median are \$16.00 and \$16.08 per s.f. The City adopted \$17.00. The explanation offered for using a rent higher than the amount indicated by the data did not satisfy the Board, but went unchallenged by the Complainant.

(20) Seven rent comparables for space in the 1,001 to 2,500 s.f. category were presented (R1, page 31). The median and mean were \$15.00 and \$15.66 per s.f. Again, the City rounded the rent upward to the nearest \$1.00 per s.f. and adopted \$16.00 as the typical rent.

Board's Reasons for Decision:

(21) The subject has public parking available in a parking lot across the street. The roadway is an interior artery that carries primarily local traffic. This situation is not unlike the parking arrangement for the majority of modern power shopping centres throughout the City. In this respect, the Complainant's argument fails.

(22) There was some evidence presented that would suggest that the subject's owners do not expend significant effort in leasing the subject premises. No evidence was presented to suggest that the subject could not be leased at the typical rates used by the City for similar retail shopping centres.

(23) Having said that, the City's rental evidence suggests that the typical rates adopted by the City are inflated. However, the Complainant made no effort to question or dispute the rents adopted, except to present the actual rents within the subject.

(24) During the assessment complaint process, up to and including the hearing, every opportunity is provided to both parties to present evidence and arguments in support of their positions. The ultimate burden of proof or onus, however, rests on the Complainant, at an Assessment Review Board hearing, to convince the Board that their arguments, facts and evidence are more credible than that of the Respondent.

(25) In the opinion of this Board, the Complainant's evidence was not sufficient enough to convince this Board that the subject was unique enough to justify using site specific, rather than typical, rents and expenses in a mass appraisal atmosphere.

(26) The assessment is reduced to the amount recommended by the City..

DATED AT THE CITY OF CALGARY THIS 30th DAY OF October 2013.



Jerry Zezulka

Presiding Officer

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

Decision No. CARB 73425P/2013			Roll No. 040022303	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	retail	Market Value	Income Approach	Rental Rate