



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:

Richard B. Riggins (as represented by D. Speirs), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Fegan, PRESIDING OFFICER
Y. Nesry, BOARD MEMBER
J. Rankin, 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 2014 Assessment Roll as follows:

ROLL NUMBER:	067157206
LOCATION ADDRESS:	1403 12 ST SW
FILE NUMBER:	76024
ASSESSMENT:	\$1,760,000

This complaint was heard on the 17th day of July, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- D. Speirs, (Agent for R. Riggins)

Appeared on behalf of the Respondent:

- B. Tang, (Assessor, City of Calgary)
- J. O'Kurley (Representative, City of Calgary)

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

- [1] No procedural or jurisdictional matters were raised.

Property Description:

[2] The subject property is located in an area of Calgary known as the Beltline. The land use designation is City Centre Multi-Residential High Rise District. The parcel of land is 5,227 square feet (exhibit R-1, page 3) in size and is located at the corner of 12th ST SW and 14th AV SW. The property is improved with a 2,643 square foot house which is used for both residential and office purposes. The assessment is based on land value only. The assessment is split between residential (80%) and non-residential (20%) uses.

Issues:

[3] The 2014 assessment increased from \$827,500 in 2013 to \$1,760,000 in 2014. The Complainant argued that the local real estate market did not experience this type of increase. The size of the subject parcel is not attractive to investors and therefore affects the market value.

[4] The assessment is not equitable when compared to similar properties in the area.

Complainant's Requested Value: \$948,700

Board's Decision: The complaint is allowed in part and the assessment is revised to \$1,450,000.

Legislative Authority, Requirements and Considerations:

[5] Section 293 of the Act requires that:

- (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.

[6] Matters Relating to Assessment and Taxation Regulation (MRAT) states:

Mass Appraisal

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.

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.

[7] *When permitted use differs from actual use (MRAT 11)*

(11) When a property is used for farming operations or residential purposes and an action is taken under Part 17 of the Act that has the effect of permitting or prescribing for that property some other use, the assessor must determine its value

- (a) in accordance with its residential use, for that part of the property that is occupied by the owner or the purchaser, or the spouse or adult interdependent partner or dependant of the owner or purchaser, and is used exclusively for residential purposes...*

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

[8] The Complainant stated that most of the house was rented to a residential tenant and the remaining space was used by a non-profit organization, the Freehold Petroleum and Natural Gas Owners Association. The Complainant has previously made an application for a tax exemption on that component of the property but the application was denied. The exemption issue was not raised as part of this hearing.

[9] The Complainant provided a list of similar properties in the area that were assessed at a

lower rate per square foot than the subject property. The Complainant provided colour pictures to demonstrate the degree of similarity between these comparables and the subject property.

[10] The Complainant provided an affidavit saying that in the fall of 2012, he was in contact with three realtors about the possible listing of the subject property and their suggested list prices ranged from \$875,000 to \$925,000. The decision was made not to list the subject property at that time.

[11] The Complainant also provided copies of a listing agreement signed in 2014 for a list price of \$1,450,000. This listing was conditional on the sale of the subject property and the parcel next door to the subject property (1407 12th ST SW).

[12] The Complainant asked the Respondent the extent to which the City of Calgary audit the information provided to the City regarding owner occupancy and the extent of residential use of each property. The Complainant suggested that the Respondent's data on those issues may not be correct.

Respondent's Position:

[13] The Respondent commenced by explaining to the Board that there had been an error in the assessment calculation and that the correct assessment should be \$1,570,000. This figure was based on a rate of \$285.00 per square foot of land plus a 5.00% upward adjustment because the subject property was on a corner lot.

[14] The Respondent included copies of the 2014 listing for both the subject property and the property next door. Again the listing sheets indicated that both lots must be sold together. The list price was \$1,450,000 for each lot.

[15] The Respondent provided a chart showing the comparable properties that had been selected by the Complainant and provided comments on each one. The Complainant stated that four of the comparable properties were owner occupied and used for residential purposes and that two of the comparable properties were "house conversions".

[16] The Respondent provided a sales analysis chart using 9 sales. The sales took place from September 2011 to October 2012. The sales had been adjusted for influences such as corner lots and railway tracks but not for time. The sold properties ranged in size from 3,223 to 80,848 square feet.

[17] The Respondent provided a chart listing eleven properties which the Respondent felt were comparable to the subject and which were all assessed using the same base rate of \$285.00 per square foot of land area (exhibit R-1, page 34).

[18] The Respondent provided an explanation of why the 2011 application for an exemption had been denied.

Board's Reasons for Decision:

[19] The Board noted that the Respondent had assessed this property as if it were vacant land. Essentially this implies that the value of the land is in its' development potential. That being the case the Board agrees with the Complainant that the size of the parcel is a significant factor in valuing land based on its' development potential.

[20] The Board noted that the sales used by the Respondent ranged in size from 3,223 to 80,848 square feet. The adjusted sale prices per square foot ranged from \$113 to \$417 per

square foot. The Board noted that the highest sale price per square foot was for the largest parcel and the lowest sale price per square foot was for the second smallest parcel. So while the sales evidence was not completely conclusive it did to some extent support the theory that the site size has an impact on the sale price per square foot.

[21] The Board noted that the 2013 assessment was \$827,500 and the 2014 assessment was \$1,760,000 (now being corrected to \$1,570,000). Assuming that the 2013 assessment was a reasonable indicator of the market value of the subject on July 01, 2012 and that the 2014 assessment is a reasonable indicator of the market value of the subject on July 01 2013 the value of land in the Beltline must have increased by almost 100%. This theory is not supported by the Respondent's sales analysis where no time adjustment was made to any of the sales even though they took place in 2011 and 2012.

[22] The Board was not able to rely on the Complainant's equity analysis because it involved a number of owner occupied residential properties which under the Matters Relating to Assessment and Taxation Regulation must be valued based on their actual use and not their highest and best use.

[23] Due to the large size range in the Respondent's sales analysis and the limited number of sold properties that are similar in size to the subject property, the Board found the best evidence of the July 01, 2013 market value of the subject property was the recent listing of the subject property and accordingly revises the assessed value to \$1,450,000.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF July 2014.

R. Fegan
R. Fegan

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. 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.*

CARB Identifier Codes

Decision No.		Roll No.		
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Commercial	Land	Market value	Equity

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