



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 *MGA*).

between:

McDonald's Restaurants of Canada Limited
(represented by Colliers International Realty Advisors Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Ms. V. Higham, PRESIDING OFFICER
Ms. A. Huskinson, BOARD MEMBER
Mr. E. Reuther, BOARD MEMBER

This is a complaint to the Calgary Assessment Review Board (the Board) in respect of a property assessment prepared by the Assessor of The City of Calgary (the City) and entered in the 2014 Assessment Roll as follows:

ROLL NUMBER:	067203307
LOCATION ADDRESS:	1422 17th Avenue SW Calgary, Alberta
FILE NUMBER:	76512
ASSESSMENT:	\$6,780,000

This complaint was heard on 17th day of June, 2014 at the office of the Calgary Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- **Mr. S. Kassam** **Agent, Colliers International Realty Advisors Inc.**
- **Mr. J. Phelan** **Agent, Colliers International Realty Advisors Inc.**

Appeared on behalf of the Respondent:

- **Mr. H. Yau** **Assessor, City of Calgary**
- **Mr. R. Ford** **Assessor, City of Calgary**

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

- [1] Neither party objected to the composition of the Board as introduced at the hearing.
- [2] All disclosure materials were received in a timely fashion, as legislated under the Act.
- [3] The Board notes an executed Agent Authorization Form present in the file.
- [4] No preliminary matters were raised by either party.
- [5] Upon request, the Board agreed to carry forward the "flood effects" arguments and evidence presented by both parties from "lead file" #76617, heard by the Board on that same day.

Property Description:

The subject is assessed as a "B" quality retail property built in 1952 and located at 1422 17th Avenue SW in zone BL6 of the city's Beltline commercial district. Designated as Centre City Commercial Corridor District, the parcel is improved with one building comprising 7,540 square feet (sf) of space on 0.55 acres of land. The subject is currently assessed at \$6,780,000 using the Direct Sales Comparison approach, valued as land only.

Issues:

[6] The Complainant identified one matter on the Complaint Form as under complaint, being the assessment amount. During the hearing, the Complainant indicated he was requesting a different assessment amount (\$2,300,000) than originally noted on the Complaint Form (\$5,898,600). The Complainant then raised the following issues for the Board's consideration:

- 1) Which Beltline zones are most correct to include in a sales comparison analysis applied to the subject property: the assessed zones 3, 4, 6 and 7 or the requested zones 4, 5, and 6?
- 2) Did the City err in failing to apply a quantified "flood effects" adjustment to the subject property?

Complainant's Requested Value: \$2,300,000

Board's Decision: For reasons outlined herein, the Board confirms the subject assessment.

Legislative Authority, Requirements and Considerations:

[7] A Composite Assessment Review Board (CARB) derives its authority from the *MGA*, Revised Statutes of Alberta 2000, Section 460.1, which reads as follows:

- (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).

Section 293 of the *MGA* 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.

Section 2 of the *Matters Relating to Assessment and Taxation Regulations* (the *MRAT*) states:

- (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.

Position of the Parties

Issue 1: Which Beltline zones are most correct to include in a sales comparison analysis applied to the subject property: the assessed zones 3, 4, 6 and 7 or the requested zones 4, 5, and 6?

Complainant's Position on Issue #1:

[8] The Complainant submitted that the subject property's assessment had increased in value by thirty per cent over the previous year. He argued that the City used a "very general approach to assessing land" (Exhibit C1, p.3) which improperly included sales comparables from zones which were not most similar to the subject.

[9] The Complainant submitted that the most comparable and correct zones to include in the city's sales comparison should be zones 4, 5, and 6, since these zones are closer to the subject, reflecting factors more similar to the subject property.

[10] The Complainant submitted his "Land Sales – BL4/BL5/BL6" analysis (Exhibit C1, p.21), showing three transactions, all in zone BL4, with a mean per square foot (psf) value of \$192.72.

[11] The Complainant objected to the City's assessed rate of \$285 psf, arguing that the subject was "over assessed" (Exhibit C1, p.22) at that rate since the City included too large a geographic sampling of sales comparables in their analysis.

[12] The Complainant also objected to two of the City's comparables because they were "Direct Control" land use designation (Exhibit R1, p.19), arguing that this designation affords greater latitude and flexibility in development options than the subject, and should thereby be excluded from the analysis.

Respondent's Position on Issue #1:

[13] The Respondent submitted the City's "BL3, BL4, BL6 & BL7 Land Rate Study" (Exhibit R1, p.19), applied to all Beltline retail "land value only" properties in the subject zone (BL6). This study included nine sales, and showed mean/median/18-month median values of \$274, \$288, and \$325 psf respectively, analysing data in those four zones over the past three years.

[14] The City rounded the median value down to \$285 psf, applied to the subject property.

[15] The Respondent argued that the City's study of nine sales over four geographically proximate zones is a more reliable analysis of typical value for the subject property than the Complainant's three sales within one single zone.

[16] The Respondent further argued that including zones 3 and 4 in the City's study only benefit the subject, since these zones typically reflect lower land rates than the more commercially appealing zones 6 and 7.

Board's Findings and Reasons for Decision on Issue #1:

[17] The Board confirms the City's use of zones 3, 4, 6, and 7 in its sales analysis as the most correct to apply to the subject property.

[18] The Board is not persuaded by the Complainant's argument that geographic proximity ought to be the most relevant factor in analysing sales data in the subject case. The Board prefers the broader scope of the City's nine sales in four zones over the Complainant's three sales in one zone, owing to the more representative sampling for an analysis of typical market value.

[19] Furthermore, the Complainant relied solely on sales from zone 4, which reflects *significantly* lower rates than any other zone in the evidence presented, owing to its distance from the commercially appealing 17th Avenue strip.

[20] Thus, the Board accepts the City's evidence as the best indicator of market value for the subject property presented at the hearing.

Issue #2: Did the City err in failing to apply a quantified "flood effects" adjustment to the subject property?**Complainant's Position on Issue #2:**

[21] The Complainant argued that the "crippling repercussions" (Exhibit C1, p.3) of the 2013 flood in Calgary rendered "properties within the flood zone at essentially a \$0 value" (Exhibit C1, p.3), due to the devastating economic effects of the flood.

[22] The Complainant submitted that this "market freeze as at July 1, 2013" (Exhibit C1, p.3) justifies the requested 50% reduction, since the negative economic impact of the flood affected more than just flooded properties in Calgary. The Complainant argued that the City failed to "quantify" this impact in the subject assessment, since it was one of those properties not flooded, but surely *affected by* the event.

[23] The Complainant presented several third party reports and articles (Exhibit C1, pp.28-43) in support of this argument, noting that the subject was included in a series of Calgary postal code prefixes which the Scotiabank flagged as requiring "additional inspections or

appraisals before any financing gets approved" (Exhibit C1, p.32), making it more onerous and costly to property owners within those prefixes.

Respondent's Position on Issue #2:

[24] The Respondent argued that the Complainant's requested flood effect reduction is unwarranted, since the subject was not actually flooded last summer, nor does it lie within in any flood zone identified by the City.

[25] The Respondent challenged the relevance and reliability of the third party reports and articles submitted by the Complainant, noting that all of them referred to *residential*, not commercial/retail properties.

[26] The Respondent noted that sale prices for non-residential properties in the subject area have actually increased generally since the flood last summer, and that properties either flooded or in a City-identified flood zone, were appropriately adjusted in their respective assessments.

[27] The Respondent also questioned the fifty per cent figure, noting that the Complainant submitted no data to support this or any other value, arguing that it was arbitrarily conceived in an evidentiary vacuum.

Board's Findings and Reasons for Decision on Issue #2:

[28] The Board finds that the City did not err in omitting to apply a quantified "flood effects" reduction to the subject property.

[29] The subject was neither flooded, nor in a flood zone, and the Complainant failed to proffer any evidence whatsoever of specific – even marginal – market value *impact* to the subject justifying a downward adjustment of any amount for flood effects.

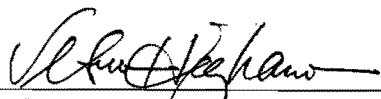
[30] The Board finds that the third party reports and articles submitted by the Complainant are not relevant to the retail subject property in any persuasive manner, since they all speak to residential properties.

[31] The Board concurs with the Respondent's submission that the requested 50% adjustment is arbitrary and wholly unsupported by the evidence submitted at the hearing.

Board's Decision:

[32] For the reasons outlined herein, the Board confirms the subject assessment.

DATED AT THE CITY OF CALGARY THIS 11th DAY OF July 2014.



V. Higham, Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's 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 Administrative Use Only – Roll Number 067203307

Municipal Government Board Use Only: Decision Identifier Codes				
Municipality/Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
Calgary CARB	Retail	Stand Alone	Sales Approach	Land Value