



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:

Sun Ngai Development Company, 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:	067229708
LOCATION ADDRESS:	1400 12th Avenue SW Calgary, Alberta
FILE NUMBER:	76617
ASSESSMENT:	\$6,700,000

This complaint was heard on 16th 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] This is the "lead file" from which arguments and evidence presented by both parties relative to the issue of "flood effects" were carried forward to other complaints heard by this panel involving these parties during the same week.

Property Description:

- [6] The subject is assessed as a "D" quality retail property located at 1400 12th Avenue SW in zone BL5 of the city's Beltline commercial district. Designated as Centre City Mixed Use District, the parcel is improved with two retail structures (both constructed in 1964), comprising 49,155 and 225 square feet (sf) of space respectively on 0.81 acres of land. The subject is currently assessed at \$6,700,000 using the Direct Sales Comparison approach, valued as "land only."

Issues:

- [7] 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 (\$3,350,000) than originally noted on the Complaint Form (\$5,829,000). The Complainant then raised the following issue for the Board's consideration:

- 1) Did the City err in failing to apply a quantified "flood effects" adjustment to the subject property?

Complainant's Requested Value: \$3,350,000

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

Legislative Authority, Requirements and Considerations:

[8] 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: Did the City err in failing to apply a quantified “flood effects” adjustment to the subject property?

Complainant’s Position:

[9] 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.

[10] 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.

[11] The Complainant presented several third party reports and articles (Exhibit C1, pp.25-39) 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.29), making it more onerous and costly to property owners within those prefixes.

Respondent’s Position:

[12] The Respondent argued that the Complainant’s requested flood effects 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.

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

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

[15] The Respondent also questioned the 50% 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:

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

[17] 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 warrant a downward adjustment of any amount for flood effects.

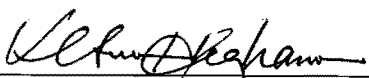
[18] The Board finds that the third party reports and articles submitted by the Complainant are not relevant to the retail subject property in any persuasive manner, since they all speak to residential properties.

[19] 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:

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

DATED AT THE CITY OF CALGARY THIS 17th 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 067229708

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