



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:

Maldeghem Holdings Ltd. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, P. Pask
Board Member, J. Lam***

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: 079019493

LOCATION ADDRESS: 2116 - 4 Street SW

FILE NUMBER: 74467

ASSESSMENT: \$3,280,000

This complaint was heard on the 14th day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- A. Izard, Agent, Altus Group

Appeared on behalf of the Respondent:

- R. Urban, Assessor, City of Calgary

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

- [1] There were no procedural or jurisdictional matters raised by either party.

Property Description:

- (2) The subject is a retail building that is divided into the Anejo and Towa Sushi restaurants, located in the Mission district of SW Calgary. Both restaurants are full service. The building is a converted residence, originally built in 1911. The building contains 5,095 square feet (s.f.) of rentable space and is classified as a "B" quality building. The assessable land area is 0.12 acres.

Issues:

- (3) The property is currently being assessed by the income approach. The Complainant does not dispute the method of valuation. However, the rent used by the City in the valuation calculations is \$40.00 per s.f. The Complainant asserts that \$34.00 is more reflective of market value. There were no other issues brought forward by the Complainant.

Complainant's Requested Value: \$2,860,000.

Board's Decision:

- (4) The assessment is reduced to \$3,100,000.

Legislative Authority, Requirements and Considerations:

- (5) This Board derives its authority from section 460.1(2) of the Act.

- (6) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAT), 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" ,

(7) Section 467(3) of the 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."

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

(9) The Board notes that the assessment has increased from \$2,750,000 in 2013, to \$3,280,000 in 2014.

Position/Evidence of the Parties

(10) In support of the request, the Complainant submitted five lease comparables. The comparables consist of full service restaurant over 3,000 s.f. All of the comparables are located on or near 4 Street SW. Rents range from \$28.00 to \$45.00 per s.f. The median is \$33.90 and the mean is \$35.58 per s.f.

(11) The Complainant also submitted the rent roll for the subject that showed the actual rent for the Anejo Restaurant at \$28.00 per s.f. starting in September, 2012, with step-ups to \$34.00 in September, 2019. Rent for the other space is shown at \$36.76 per s.f.. However, the latter lease expired in September, 2012. No evidence regarding the current lease for this space was entered into evidence.

(12) The Respondent submitted the 2013 Assessment Request for Information Form (ARFI) for the subject that showed the current rent for the Anejo Restaurant at \$28.00 per s.f., and the Towa Sushi Restaurant at \$36.76 per s.f. The ARFI also shows the Towa Sushi lease to be expired.

(13) The Respondent also submitted the 2014 Beltline Restaurant / Fastfood Lease Analysis for restaurants of less than 6,000 s.f. There are ten leases in the analysis. The analysis covers leasing activity from January, 2011 to July, 2013. Lease rates range from \$22.00 to \$50.00 per s.f.. This analysis contains three leases for fast food or snack outlets that are not full service.

(14) The Respondent also submitted the five leases contained in the Complainant's evidence. The purpose of the Respondent was to demonstrate that one of the leases was actually a step-up from 2001, and two are dated leases from 2009, and 2010. One of the leases - the Wurst Restaurant at 2437-4 Street SW, is an A2 class premises, compared to the "B" status of the subject.

Findings and Reasons for Decision:

(15) This Board does not agree that fast food kiosks are similar or comparable to full service restaurants. As such it is the Board's opinion that these should be excluded from the City's restaurant lease analysis. If these are excluded, the mean and median lease rents are \$36.85 and \$39.00 respectively.

(16) The Respondent would have the Board disregard the Complainant's lease comparables because of renewals or lease dates. The Board is not swayed by the fact that some of the

Complainant's comparables are older than the City's or that one is a step-up from a previous contract. The fact is that the rents shown were in effect on the valuation date.

(17) The Board is also influenced by the fact that the two restaurants within the subject property are paying rents significantly lower than the City's adopted typical rents.

(18) The Board is of the opinion that the Complainant's requested rent is more reflective of market levels, is more reflective of what is actually happening at the subject property, and hence will more accurately reflect market value.

(19) The revised assessment is based on the revised median of the restaurant rents, after the fast food kiosks are excluded.

DATED AT THE CITY OF CALGARY THIS
Presiding Officer

13th

DAY OF August, 2014.



Jerry Zezulka

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

NO.	ITEM
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| 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.*

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Decision No. CARB 74467P/2014		Roll No. 079019493		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail full service restaurant	Market Value	Income Approach	Rental Rate