

**ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS****CARB - 0203-0002/2013**

**IN THE MATTER OF A COMPLAINT** filed with the City of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

**BETWEEN:**

317411 Alberta Ltd. o/a Legends Pub & Grill - Complainant

- a n d -

City of Lethbridge - Respondent

**BEFORE:**

Members:

M. Vercillo, Presiding Officer  
B. Ellis-Toddington, Member  
S. Schmidt, Member

A hearing was held on Thursday, July 11, 2013 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessment of the following property:

Roll No./ Property Identifier	Assessed Value	Owner
1-0-164-2433-0001 2433 Fairway Plaza Road S	\$1,875,000	317411 Alberta Ltd.

Appeared on behalf of the Complainant:

- M. D'Agnone

Appeared on behalf of the Respondent:

- L. Wehlage
- D. Geseron

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The subject property is a pub or lounge facility known as Legends Pub & Grill. According to the information provided, the property contains one building, constructed in 1994, with a redevelopment in 2002 and a final renovation in early 2012. The building has an assessed total size of 6,465 square feet (sf) and is situated on an assessable land area of 37,135 sf with a resulting site coverage ratio of 17%.

The subject is assessed using the Income Approach to value by applying an assessed lease rate of \$23.00 per sf to the building space to calculate a potential gross income (PGI) of \$148,695. The income calculation includes allowances for a 3.00% vacancy rate, operating costs of \$4.00 and an 8.00% non-recoverable rate. The resulting \$131,919 in net operating income (NOI) is capitalized for assessment purposes using a 7.50% capitalization rate (cap rate). The assessment also includes an "excess land" component that assesses 4,660 sf of the land at an assessed rate of \$25.00 per sf.

**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

**PART C: ISSUES**

The CARB considered the complaint form together with the representations and materials presented by the parties. However, as of the date of this hearing, only the following issue remained in dispute:

**ISSUE 1: Assessed value is too high.**

**The Complainant** provided a document entitled "Assessment Review Board" that was entered as "Exhibit C1" during the hearing. The Complainant along with Exhibit C1 provided the following evidence and argument with respect to this issue:

- A partial copy of an appraisal of the property completed by Reliance Appraisal Consultants Ltd. and dated November 23, 2011. The appraisal was completed on the property on an "as is" basis and on the anticipated full interior redevelopment of the building space, completed in January, 2012. The full redevelopment appraisal of the property was \$1,660,000.
- A narrative summary of three comparable properties to the subject highlighting their assessed values and property taxes.
- A short narrative of the unsightly surrounding neighborhood properties.
- During questioning, the Complainant requested that a more realistic assessment value for the subject property would be \$1,500,000.

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**The Respondent** provided a 23 page document that was entered as "Exhibit R1" during the hearing. The Respondent along with Exhibit R1 provided the following evidence and argument with respect to this issue:

- That the subject was assessed a value of \$1,512,000 in the 2012 tax year and according to a building permit completed \$240,000 in renovation costs in March, 2012.
- That upon review the Respondent discovered an error in the 2013 assessed cap rate and recommended a new cap rate of 8.00%. The resulting revised assessed value of the income producing component of the subject would be \$1,649,000. Adding the excess land value of \$116,000 the new recommended assessed value for the subject would total \$1,765,000.
- A site coverage analysis chart of eleven comparable properties including the subject. The summary concluded a site coverage range of 7% to 27% with average site coverage for comparable properties of 20%. Properties with site coverage of less than 20% like the subject incur excess land assessments.
- A chart of four comparable land sales of much larger properties with a range of \$14 to \$18 per sf.
- A chart of two post-facto multiple parcel land sales with a range of \$27 to \$28 per sf.
- A chart of six equity comparable properties including the subject. All the comparable properties were similar to the subject in terms of zoning and use (restaurant, pub or grill). Site coverage ranged from 7% to 19% and all incurred excess land assessments like the subject. The assessed values ranged from \$190 to \$377 per sf, with the subject assessed at \$273 per sf calculated on the recommended assessment of \$1,765,000.
- A chart of the three comparable properties of the Complainant. The assessment values ranged from \$163 to \$183 per sf. None of the comparable properties incurred excess land assessments like the subject. The three comparables properties were evaluated by the Respondent to be greatly inferior to the subject in terms of land size and overall assessment attributes.

**Findings: Issue 1**

In view of the above considerations, the CARB finds as follows with respect to Issue 1:

- The partial copy of the appraisal provided by the Complainant, although anticipatory in nature, is substantially supportive of the recommended assessment of the Respondent.
- Assessments of excess land are equitably applied among comparable properties.

**PART D: FINAL DISPOSITION OF COMPLAINT**

The complaint is denied, but the recommended assessment of the Respondent is accepted as follows:

Roll No./Property Identifier	Value as set by the CARB	Owner
1-0-164-2433-0001 2433 Fairway Plaza Road S	\$1,765,000	317411 Alberta Ltd.



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The CARB provides the following reasons for the decision:

- There was insufficient evidence provided by the Complainant to support his requested assessment of \$1,500,000. The onus or burden of proof first lies with the Complainant to demonstrate that either the assessment is incorrect, or provide enough information supported by market evidence that may cast doubt on the assessment, or that the Complainant's alternative value more accurately approximates fair market value. The Complainant provided a partial copy of an appraisal which was completed prior to the renovation. As was stated in the findings, the appraisal's post renovation value was more supportive of the Respondent's recommended assessment even though it may not have given consideration for excess land.
- The excess land assessment is accepted by the CARB as a component of assessing fair market value in this case and is seen to be equitably applied to the subject.

It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this 29<sup>th</sup> day of July, 2013.



Presiding Officer



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**APPENDIX "A"**

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

**NO. ITEM**

- |               |                          |
|---------------|--------------------------|
| 1. Exhibit C1 | Complainant's Disclosure |
| 2. Exhibit R1 | Respondent's Disclosure  |

**CARB - 0203-0002/2013 Roll # 1-0-164-2433-0001 (For MGB Office Only)**

Subject	Type	Sub-type	Issue	Sub-issue
CARB	Retail	Stand Alone	Income Approach	