

McDonalds's Restaurants of Canada Limited  
2 McDonald's Place  
Toronto, ON M3C 3L4

City of Red Deer Assessment Department  
4914 48 Avenue  
Red Deer, AB T4N 3T4

**Attention: Real Estate SS 83/60 MSIS 2042  
SS 121/60 MSIS 2093  
SS 64/60 MSIS 2029**

**Attention: B. Lutz, Assessor**

Via email: [brian.lutz@reddeer.ca](mailto:brian.lutz@reddeer.ca)  
(paper copy to follow)

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## COMPOSITE ASSESSMENT REVIEW BOARD DECISION

**Hearing: 09 November, 2010**

Panel: Presiding Officer M. Chilibeck; A. Gamble; M. Peterson

Decision# CARB0262-30/2010

**Roll 540060** 2502 50 Avenue (south)  
**Roll 1711595** 4840 52 Avenue (downtown)  
**Roll 2822775** 7149 50 Avenue (north)

**Assessment: \$1,832,000**  
**Assessment: \$1,280,700**  
**Assessment: \$1,720,600**

For the Complainant:  
M. Uhryn, Agent, Colliers International

For the Respondent:  
R. Kotchon, Assessor  
A. Meckling, Assessor

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The three subject properties are individual McDonald's drive-thru restaurants: Roll #5400060 is located in the south end of Red Deer (the 'south property'), Roll 1711595 is located in downtown (the 'downtown property') and Roll #2822775 is located in north (the 'north property') Red Deer. At the outset of the hearing the Complainant and the Respondent agreed that all three properties be heard as one hearing.

At the time the complaints were filed, the Complainant identified 7 matters on each complaint form and listed 15 grounds or reasons for the complaints. The Complainant confirmed that the only matter to be decided by the Board is the assessment for each of the properties and the reason for the complaint is the assessment is in excess of market value because the assessed rent rate per square foot (sq. ft.) is overstated.

### BLENDED RATES

The Board wishes to note that the assessed rental rate of \$28.50 for the south and north properties in this complaint are 'blended rates' – meaning that the rental rate expressed at \$28.50 for the main floor area is a blend of the main floor rate of \$27.00 and the basement rate

of \$2.00 per sq. ft. During the hearing, the Complainant argued that the information provided by the Respondent, in response to the Complainant's request for assessment information, and relied on by the Complainant to prepare the initial arguments and evidence package was understood to be rental rates for main floor area only; there is no rate shown for the basement area on the assessment record. Also, the Complainant argued that the Respondent did not provide a table of comparables to support the assessed basement rates.

The Respondent stated that their disclosure package, exchanged with the Complainant and entered into the record as 'Exhibit 2R', shows that the rates are blended. The Respondent also argued that the basements at the north and south properties are being used for storage and are assessable. The downtown property does not have any basement area.

The Board notes that the Complainant did not address the assessment of basement area in a written rebuttal and did not bring it up as a preliminary matter at this hearing. The Board finds that while the blended rates were not specifically mentioned in the 'assessment record', it was included in the Respondent's exchange of evidence. The Board finds that the Complainant should have noticed the issue of the blended rates as this was identified in a separate chart in the Respondent's evidence and could have addressed this issue in a rebuttal, as allowed for in *Matters Relating to Assessment Complaints Regulation* (MRAC), or brought it up as a preliminary matter at the outset of the hearing.

The Board believes it is in the best interest of an assessor to disclose how the assessment was derived by using the most clear and transparent approach available so as not to be in contravention of section 299 or 300 of the *Municipal Government Act* (MGA).

## ASSESSMENT INCREASE

During the Respondent's presentation, and within the Respondent's disclosure, was a request by the Respondent to increase the assessed value of the north and south properties by \$17,400 each to account for garbage buildings, with 450 sq. ft. not included in the current assessment.

The Board considered this request and hereby denies the request based on the following:

1. The methodology used to value the garbage buildings is based on the cost approach whereas the methodology used to calculate the current assessments is based on the income approach. The Respondent did not provide any argument or evidence that would convince the Board that the market value of the garbage buildings is equivalent to their depreciated replacement cost.
2. The Board is aware that the garbage buildings were not assessed last year.

3. The amount of the requested increase is approximately 1% of the assessed value. The Board is not persuaded to make the requested change to the assessment in the absence of a compelling argument and evidence. The Board believes, in this case, that to make a change for such a minor amount is unreasonable and that it would be prudent to make the change in the following assessment year.

## PREVIOUS DECISION

The Complainant began his arguments by addressing a Notice of Decision from the Municipal Government Board dated 20 May 2010 showing the reduction of the 2008 assessed values for all three subject properties. The Complainant advised the Board that this decision was based on reducing the rental rate from \$28.00 to \$26.00 per sq. ft. of main floor area and argued that the decision supports their current request to reduce the subject assessments. The Respondent countered with the argument that assessments for prior years are irrelevant.

The Board finds that it is unreasonable to use a prior year's decision to change an assessment unless the reasons for the decision are available for deliberation and for comparison or relevance to the issues, evidence and argument in this complaint. There was insufficient information provided to the Board in this regard and therefore the Board placed very little weight on this evidence.

## COMPARABLES:

The Complainant provided the Board with a copy of Municipal Government Board Order #090/02 which found that making comparisons of fast food restaurants to other types of commercial properties is acceptable. To that end, the Complainant submitted a table of eight recent lease comparables – all with lower lease rates than the subject properties in support for their request to reduce the assessed blended rental rate for the south and north properties from \$28.50 per square foot to \$20.00 and for the downtown property from \$28.50 to \$20.50. The lease rates ranged from \$13.50 to \$25.00 per sq. ft. with an average of \$19.24 per sq. ft. and the areas ranged from 960 to 5,820 sq. ft.

The Respondent argued against the comparables provided by the Complainant stating that only one of them is a stand alone building; none have drive thru's and some are shell rates only; the shell rates do not include any interior finishing and tenant improvements.

The Respondent submitted a table of eight comparables in support of the assessed rates of \$27.00 for the south and north properties and \$28.50 for the downtown property which gave consideration to factors such as size, location, condition and reflected the rental rates for shell space with tenant improvements. The Respondent stated that the rates are main floor only. The lease rates range from \$24.00 to \$34.60 per sq. ft. with an average of \$28.49 and the areas ranged from 2,611 to 6,162 sq. ft.

The Complainant argued that the comparables provided by the Respondent vary significantly in size and that the rental rates are impacted by economies of scale. Also that two of the comparables are banks and the tenant improvements on those properties would be significantly greater in value than in a drive-thru restaurant such as the subject properties.

The Board finds the Complainant's lease rate comparables, for the most part, to be inferior to the Respondent's comparables. The lease rates and lease areas have a significant range and there is no indication of the property type. There is insufficient information to determine the similarity of the comparables to the subjects. Only two of the Complainant's comparables appear to be similar to the subject properties; Montana's, a free standing full service restaurant in south Red Deer, with 5,280 sq. ft. at \$23.57 per sq. ft. and a lease in a multi-tenant shopping centre with pad site in north Red Deer with 1,812 sq. ft. at \$25.00 per sq. ft. This suggests to the Board that the rental rate could be approximately \$24.00 per sq. ft. Also, the Board was not presented with enough information on the Montana's comparable to determine what, if any, tenant improvements are included in the rental rate.


Of the eight lease rate comparables provided by the Respondent, three are stand-alone, fast food restaurants with a drive-thru with lease rates at \$26.81, \$30.00 and \$34.60 per sq. ft. One is for a stand-alone restaurant with a lease rate at \$25.50, two are stand-alone banks and two are retail tenants in a multi-tenant building. The Board notes that one fast food restaurant comparable is the A&W in south Red Deer with a lease rate at \$26.81 per sq. ft. The Board finds the four stand-alone comparables to be similar to the subjects and support the assessed rates.

## DECISION

In the absence of compelling evidence or sufficient information on the Complainant's comparables and based on the foregoing reasons, the Board confirms the assessments for the three subject properties.

Dated at the City of Red Deer in the Province of Alberta this 8<sup>th</sup> day of December, 2010 and signed by the Appeals Coordinator for the Presiding Officer on behalf of all three panel members who agree with this decision.

Cordially,



J. Kurylo

for: Myron Chilibeck, Presiding Officer

xc: MGB (via email only: [mgbmail@gov.ab.ca](mailto:mgbmail@gov.ab.ca))

Colliers International (via email only: [calgary.tax@colliers.com](mailto:calgary.tax@colliers.com))

**The Municipal Government Act provides the right for you to appeal this decision to the Court of Queens Bench on a question of law or jurisdiction of the Board within 30 days of receiving this letter.**

If you have any questions concerning these matters, please contact the Regional Assessment Review Board Clerk at 403.342.8132.

**FOR ADMINISTRATIVE USE ONLY**

Decision No.0262-30/2010		Roll No.540060, 1711595, 2822775		
<b><u>Subject</u></b>	<b><u>Type</u></b>	<b><u>Issue</u></b>	<b><u>Detail</u></b>	<b><u>Issue</u></b>
CARB	Retail	Stand Alone	Income Approach	Net Market Rent