

**CITY OF ST. ALBERT
COMPOSITE ASSESSMENT REVIEW BOARD (CARB)
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:

McKenney Corner Properties Inc.
COMPLAINANT

and

The City of St. Albert – Assessment Services, RESPONDENT

before:

J. Fleming, PRESIDING OFFICER
P. Hartman, MEMBER
L. Wan, MEMBER

This is a complaint to the St. Albert Composite Assessment Review Board in respect of a property assessment prepared by the Assessor of the City of St. Albert and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER:	100932
LOCATION ADDRESS:	10 McKenney Avenue
HEARING NUMBER:	0292-02-2013
ASSESSMENT:	\$11,483,000

This complaint was heard on November 19, 2013 at the City of St. Albert Council Chambers located at 5 St. Anne Street, St. Albert, Alberta.

Appeared on behalf of the Complainant:

- *Mr. J. McMartin*

Appeared on behalf of the Respondent:

- *Mr. S. Bannerman*

Preliminary and Procedural Matters

- 1) The parties had no objections to the composition of the panel, and the panel members declared there was no bias with respect to this matter.
- 2) There were no preliminary matters.

Issues

- 3) There were two issues identified in the complaint filing, however at the hearing, the Complainant advised that one issue was being abandoned. Accordingly, only one issue remained.
- 4) What is the best evidence for the rental rate for the Car Wash located in the project? Is it \$4.00 per square foot (psf), the rate at which the lease was signed, or is it \$15.00 psf the value used in the valuation for the assessment?

Background

- 5) As of Dec. 31st, 2012, the property is a retail strip shopping centre containing four buildings totalling 40,455 square feet. The property was built in stages between 1986 and 2007, and is situated on a 4.87 acre site. The zoning is CC – Commercial Corridor. The property is valued on the Income Approach to Value (IAV) and the 2013 Assessment is **\$11,483,000**.
- 6) The part of the subject property which is the subject of the complaint is a 10,000 square foot steel building located at the rear of the site which contains a Car Wash.

Position of the Complainant

- 7) The most significant argument from the Complainant centred on criticism of the comparables used by the Respondent in establishing the value.
- 8) The Respondent had provided four comparables, and the Complainant argued that these properties were not comparable for the following reasons.
 - a. The utility of the City's comparables were superior to the subject.
 - b. The type of construction of the City's comparables was superior to the subject

property.

- c. The exposure of the City's comparables was superior to the subject property.
 - d. The size of the City's comparables was much smaller than the subject property.
- 9) With respect to the utility and quality of construction, the Complainant argued that in their experience, the quality and design of the comparables was more conducive to conversion to another use. The subject property was a simple steel building with a single purpose design, which was not conducive to any change of use.
 - 10) With respect to the exposure, the Complainant highlighted that the subject property was located at the back corner of the site and not easily visible from the major thoroughfare (St. Albert Tr.). All of the comparables, they argued, had much better exposure to a major thoroughfare.
 - 11) Finally the Complainant noted the size of the subject was almost three times as large as the largest of the comparables, and aside from economies of scale, this size differential also impacted the utility and potential alternate use relative to the comparables.
 - 12) As further support for the concerns over the comparables, the Complainant provided copies of four land leases in the Edmonton area (two of which were Car Washes), all of which had land rents below the \$15.00 the Complainant said was assessed by the City.
 - 13) All of these reasons combined to suggest that the comparables were not similar enough to the subject to permit a valid comparison.
 - 14) In addition, the Complainant also criticized the cost calculations prepared by the Respondent as a check on the reasonableness of the value. The Complainant argued that while the land value of \$24.00 psf used by the respondent may make sense for the "main" part of the property, the land at the rear and relatively unexposed site of the Car Wash was not worth \$24.00 psf.
 - 15) The Complainant said they were in the construction business, and in their opinion, the building was worth "around" \$50.00 psf, not the \$93.00 psf indicated in the Marshall and Swift calculation.
 - 16) In summary, the Complainant indicated that in their opinion, the Car Wash component of the subject was worth \$4.00 psf, the rate at which the 20 year lease was signed in 2007.
 - 17) Based on that rent and using all the same remaining numbers included in the City valuation, the Complainant asked for a reduction in the assessment (after rounding) to \$9,934,000.

Position of the Respondent

- 18) The Respondent provided data on the method of assessment (Ex. R1 pg. 7) which detailed the rents ascribed to each of the tenants in the development, and the associated vacancy

and non recoverable (none of the attributes except the rate for the Car Wash was in dispute).

- 19) The Respondent highlighted that the Municipality was compelled to use a "typical" rent for a similar use, and while acknowledging that there were not a wealth of car washes in St. Albert, they believe that their comparables were also automotive related uses and reasonably similar to the subject property. The Respondent acknowledged that they would be willing to work with the Complainant, but they were unable to agree on a set of comparables.
- 20) In the absence of better information/evidence, the Respondent was of the opinion that the comparables selected were a reasonable comparison to the subject property.
- 21) The Respondent noted that they had prepared the construction cost estimate as a secondary test to evaluate the reasonableness of the value produced for the Car Wash component of the subject by the Income Approach. They noted that the value calculated using the Assessment Department parameters (Ex. R1 Pg. 12) of \$1,995,000 compared quite favourably to the \$1,899,459 produced by the Marshall & Swift calculations (Ex. R1 pg. 13).
- 22) The Respondent also included a summary of the assessments for other Car Washes in St. Albert, and noting that they were all similar in size, they highlighted the assessments psf were virtually identical.
- 23) The Respondent also noted that the assessment was to be based on the fee simple for the property and must reflect the value of the land and the improvements to the land.
- 24) They concluded with a request that the rental rate for the Alpine Car Wash be confirmed at \$15.00 psf, and the assessment be confirmed at \$11,483,000.

Decision

- 25) The complaint is denied, and the assessment is confirmed at **\$11,483,000**.

Reasons for the Decision

- 26) The CARB considered all of the evidence and argument.
- 27) The CARB heard all of the arguments of the Complainant, but notes that there was very little evidence to support the argument.
- 28) Fortunately or unfortunately depending on your perspective, the CARB requires evidence to support information presented at the hearing, and in the matter at hand, most of the information which came forward from the Complainant was argument, with no evidentiary support.
- 29) The CARB notes that opinion evidence may be given weight generally if the opinion comes

from a "qualified" expert. That was not the situation in this case

- 30) The CARB did review the land leases put forward by the Complainant, but there was insufficient information to determine whether the rents were "typical" as required by the legislation, and whether they represented a rent for the land and the improvements. Without that information, the CARB cannot determine whether they are comparable, and so, as a result, little weight could be given to that evidence.
- 31) Finally, the CARB notes that the evidence of the Respondent was supported by facts and in particular, the cost calculation strongly supported the value for the Car Wash component of the property calculated by the Income Approach.

Dissenting Opinion

- 32) There was no dissenting Opinion.

It is so ordered.

DATED AT THE CITY OF ST. ALBERT THIS 21st DAY OF November 2013.



J. Fleming
Presiding Officer

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*

Documents Presented at the Hearing:

C1	Complainant's Email Disclosure
C2	Complainant's McKenney Corner Tax Appeal
C3	Complainant's McKenney Commercial Development Site Plan
R1	Respondent's Disclosure