

**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(4).

between:

Assessment Advisory Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, H. Ang
Board Member 2, R. Roy***

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 072181209

LOCATION ADDRESS: 907 – 44 Street SE, Calgary, Alberta

HEARING NUMBER: 58397

ASSESSMENT: \$838,000

This complaint was heard on 23 day of November, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *C. Neal*

Property Description:

The property is a six unit, townhouse style apartment, constructed in 1976.

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

Not Applicable

Issues:

The assessment does not properly reflect market value.

Complainant's Requested Value: \$690,000

The Evidence:

The Complainant held that the assessment was too high because the vacancy rate used by the City's income capitalization calculations was too low, and the Gross Income Multiplier was too high. In support of his position, the Complainant presented a table containing two comparable properties, as well as the subject. Within the table, the Complainant inserted rents common to the subject and to each of the comparables. He then inserted a common 3.0 per cent vacancy allowance, and a common 12 per cent Gross Income Multiplier. He then proceeded to perform a calculation that produced a "Value/Assessment" for each of the properties. Of the comparables, one was a four-plex, and the second is a six unit low-rise apartment.

The purpose of the exercise eludes this Board. . At the end of the exercise, there remains an "Implied GIM Using Typical Rent". However, the "typical" rent used in the calculation bore little or no resemblance to the actual rents being generated by the property. Similarly, the calculations are not based on actual selling prices or actual assessments.

The Respondent used the following inputs in the preparation of the assessment.

Two bedroom rents.....\$1,000.00 / month

Vacancy Allowance:...3 per cent

Gross Income Multiplier:....12.00

The Respondent submitted four equity comparables, wherein each of the properties was assessed using the same inputs, resulting in identical assessments. The evidence was uncontroverted by the Complainant. Finally, the Respondent held that the two comparables of the complainant were not comparable because each apartment type was assessed using different parameters.

Board's Findings in Respect of Each Matter or Issue:

In the Board's opinion, the Complainant's analysis of the two comparables submitted is confusing and inconclusive. It did not indicate that the assessment did not properly reflect market value, nor did it indicate that there was inequity with similar properties.

Board's Decision:

The onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide convincing evidence to justify a change in the assessment.

In Manyluk v. Calgary (City), MGB Board Order 036/03, it states;

"Every opportunity is provided to both [parties to present evidence and arguments in support of their positions. The ultimate burden of proof or onus rests on the appellant, at an assessment appeal, to convince the MGB their arguments, facts and evidence are more credible than that of the Respondent."

In Kneehill (County) v. Alberta (Municipal Affairs, Linear Assessor) (2004) Board Order MGB 001/04

"It is up to the parties who file a complaint on an assessment to put sufficient energy into proving that their allegations are well founded. In other words, the onus is upon the complaining party to provide sufficient evidence in order to prove their case."

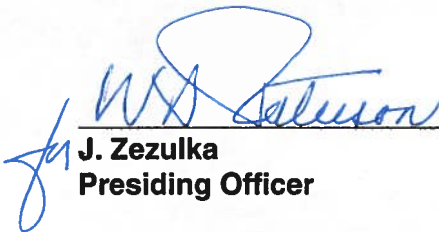
Finally, in Shirley-Anne Ruben et al v. City of Calgary MGB 239/00 at page 15

"Furthermore, just as the onus is on the Appellants to provide prima fascia proof that any particular assessment may be incorrect or inequitable, the Appellants have the initial burden of proving that the Respondent erred in the methodology adopted or implemented in connection with the assessments."

In this Board's opinion, the Complainant failed to provide convincing evidence to justify a change in the assessment.

The assessment is confirmed at \$838,000.

DATED AT THE CITY OF CALGARY THIS 6 DAY OF December , 2010.



J. Zezulka
Presiding Officer

List of Exhibits

C-1; Evidence submission of the Complainant
R-1; City of Calgary Assessment Brief

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.*