

**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

K. R. Popowich, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER

E. Reuther, MEMBER

R. Cochrane, MEMBER

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 2012 Assessment Roll as follows:

ROLL NUMBER: 081088908

LOCATION ADDRESS: 2713 14 St SW

HEARING NUMBER: 66397

ASSESSMENT: \$800,500

This complaint was heard on July 6, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 - 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *K. R. Popowich*

Appeared on behalf of the Respondent:

- *H. Yau, City of Calgary Assessor*

Preliminary and Jurisdictional Issues:

[1] Prior to the hearing, the Board observed that the electronic copy of the Complainant's disclosure had arrived at the ARB offices after the final disclosure date. However, the Complainant and the Respondent agreed that the document had been hand-delivered in printed form on May 23, 2012, prior to the deadline. The Board accepted the disclosure document as part of the evidence package.

Property Description:

[2] The subject property is a house conversion rented for office use. The house was completed in 1912 but has more recently been converted to offices, with a residential suite on the upper floor and an addition to the lower floor. It is built on a 375 sq m L-shaped lot.

Issues:

[3] The Complainant listed three issues:

- i) Is the square footage of the main floor correctly listed on the assessment?
- ii) Is the Property Assessment Class (non-residential) correct?
- iii) Is the Assessment model (house conversion) appropriate for the subject?

Complainant's Requested Value:

[4] \$425,000

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

Evidence and Arguments

[5] The Complainant, Mr. K. Popowich, stated that the measurement of the main floor of the subject property is wrong on the assessment. He had phoned Mr. H. Yau at the City of Calgary Assessment Branch and, after submitting his disclosure, had received confirmation that the assessor had changed the measurement to 932 sq ft. He did not believe this was reflected in the final assessment.

[6] The Complainant argued that the Property Assessment Class did not accurately reflect the subject property. He stated that a portion of the property is residential, so the property should be

classed residential/non-residential. He said the residential suite had been used from time to time by himself or family members as a residence when they were in the city.

[7] Mr. Popowich also challenged the Assessment Model, stating that the house had been converted to commercial space in 1995 and should be assessed using the model used for commercial properties surrounding the subject.

[8] The Complainant presented three comparable property assessments in the neighbourhood which had values ranging from \$287,000 to \$539,000. One was a commercial property and two were house conversions. The two house conversions were built in 1913 and 1912 and had lot sizes of 274 sq m and 290 sq m respectively.

[9] The Respondent, Mr. H. Yau, City of Calgary, confirmed that the house had been remeasured by the City assessors and the main floor and basement were 932 sq ft rather than 1000 sq ft as stated on the original assessment. However, the calculation of value with the new number resulted in an assessed value which, when rounded down, remained unchanged from the original rounded value.

[10] The Respondent argued that there is a residential suite on the top floor of the house, but it is not occupied. As such, the residential tax rate would not apply to it. Therefore, the entire house is rated "non-residential" for tax purposes.

[11] Mr. Yau went on to describe the difference between construction of a house and a commercial building. He explained that the City uses different models for assessment of each of these because they are constructed differently, and to maintain equity in mass appraisal House Conversions are compared to each other through a sales comparison. Commercial buildings are usually valued using the income approach.

[12] The Respondent also provided a list of four comparable House Conversions (100% non-residential) in SW Calgary to support the assessment. The houses ranged in size from 815 sq ft to 1,074 sq ft and in assessed value from \$378,000 to \$786,000, with three valued over \$700,000.

Board Findings

[13] The Board accepted the adjusted measurements for the main floor and basement of 932 sq ft each, and agreed that this did not have an effect on the rounded assessed value.

[14] The Board considered the question of Property Assessment Class (residential/non-residential). According to Section 297(4)(c) of the Municipal Government Act,

"Residential, in respect of property, means property that is not classified as farmland, machinery and equipment or non-residential."

[15] In making a decision, the Board noted that the Complainant had stated that the top floor of the house conversion contains a suite which is used from time to time by the Complainant or his family members when they are in the city. As such, it is not rented by a permanent tenant. The Respondent had argued that the suite does not have a permanent tenant, therefore is not residential.

[16] The alternative to residential classification would be non-residential. However, this suite is designed and used as a residence, and not for a non-residential purpose. Much like a house that is sometimes vacant, it should still be considered residential regardless of whether it is occupied. If, in time, the suite was repurposed for storage or additional office space the classification would change to non-residential. However in the interim it should be classified as residential.

[17] In respect of the House Conversion model, the Board was convinced by the Respondent's comparable properties that the subject is a house conversion. In the interest of an equitable mass appraisal, it is appropriate to assess the subject using this model.

[18] In summation,

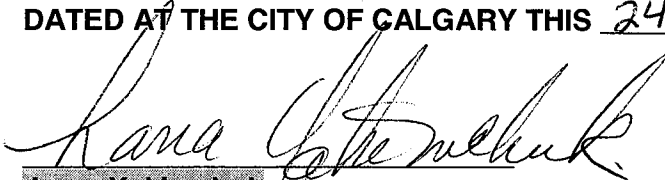
- i) the main floor and basement of the property have areas of 932 sq ft each,
- ii) the property is 46% residential and 54% office, based on the 790 sq ft upper floor being a residential suite,
- iii) the appropriate assessment model for the property is "House Conversion".

[19] The Board recommends that, for the benefit of all parties, a field officer does a site inspection of the subject property for the next assessment period to verify the residential portion.

Board's Decision:

[20] The Board confirms the assessment at \$800,500, with the changes and recommendations cited in Paragraphs [18] and [19] above.

DATED AT THE CITY OF CALGARY THIS 24th DAY OF July 2012.



Lana Yakimchuk
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. 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.*

For MGB Administrative Use Only:

Decision No. 0804-2012-P

Roll No. 092028703

Subject	Type	Issue	Detail	Issue
CARB	House Conversion	Mixed use	Sales Approach	Rates, class