

**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:

Tim Donut Limited (as represented by Altus Group LTD.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Golden, PRESIDING OFFICER

K. Coolidge, MEMBER

A. Huskinson, 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: 045031705

LOCATION ADDRESS: 924 16 AV NW

FILE NUMBER: 68492

ASSESSMENT: \$1,060,000.00

This complaint was heard on 4 day of September, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- ***K. Fong***

Appeared on behalf of the Respondent:

- ***H. Yau***

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

- [1] There were no procedural matters.

Property Description:

- [2] The subject property is a free standing retail structure constructed in 1948 containing 2,022 square feet (sq ft) of leasable area. The land area is a corner lot of .23 acres located on 16 AV NW which is a main traffic corridor in the City. A corner lot adjustment of 5% was made to the property and not contested. The assessment was conducted using the direct sales approach for vacant land.

Issues:

- [3] 1) Is the results of the sales approach the best indicator of market value.

Complainant's Requested Value: \$804,030.78

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

- [4] 1) The sales approach is the best indicator of the market value of the subject property.

[5] The Complainant argued that the method of assessment used by the Respondent provided an inequitable assessment when compared to similar properties. In the opinion of the Complainant an income approach yields an equitable assessment and recognizes the site is developed with a structure operating as a fast food restaurant. The Complainant, supported by various professional text book quotations, discussed how unreasonable the Respondent was by applying a highest and best use theory to the subject property. The subject is developed and operating and not a vacant parcel awaiting development to a higher use as the assessment suggests.

[6] The Board was presented with 14 equity comparables of fast food restaurants classified as "A" and "B" quality. The City wide, assigned rental rates for "A" quality restaurants is \$33.00 dollars per sq ft and "B" quality structures is \$26.00 per sq ft. It was shown that for the current assessment to be achieved using an income approach a lease rate of \$45.00 per sq ft would have to be used. The assessment was therefore inequitable. Recognizing the subject is more likely similar to the "A" quality restaurants the Complainant used a lease rate of \$33.00 per sq ft in an income approach resulting in the requested value.

[7] The Respondent explained the reasoning for using the bare land value in the sales approach rather than an income approach. It is believed that the sales approach yields a more equitable assessment. Utilizing the income approach sites with low site coverage or smaller structures on larger lots would be assessed the same as larger structures on smaller lots. The Respondent contends this is inequitable as although the assessment would be the same the parcel with the larger lot would trade for a higher value.

[8] The Respondent pointed out that the comparables used by the Complainant were all part of larger commercial malls and not free standing commercial structures and were therefore not comparable to the subject. An equity table was presented by the Respondent. The table contained 6 properties, sub property class CM 0201 the same as the subject property. Each of the comparable properties is located on 16 Ave. and is and are freestanding restaurants assessed on the sales approach.

[9] The Board considered the Complainants position regarding the opinion that the land approach was inappropriate for a developed and operating business. The main focus of the Board is to establish a market value for the subject property under appeal and therefore the equity comparisons were the most convincing evidence presented by the parties. In reviewing the evidence the Board found the Complainant's comparables to be dissimilar to the subject property because they were attached to larger commercial malls. These comparables did not sway the board to adjust the assessment.

[10] The Respondent provided 6 equity comparisons all freestanding structures in the same area as the subject and all assessed using the same method. Although the properties varied in quality and age they all displayed lower site coverage similar to the subject. The actual vacant land rate used by the City was not challenged and the equity comparables presented by the Respondent are more convincing than those of the Complainant. There was no evidence from the Complainant that similar properties in the same market area as the subject were assessed differently. The evidence was insufficient to adjust the assessment.

Board's Decision:

[11] The assessment is confirmed at \$1,060,000.00.

DATED AT THE CITY OF CALGARY THIS 28th DAY OF Sept 2012.



Presiding Officer

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

NO.	ITEM
1. C1a, C1b, C1c, 2. C-2	Complainant Disclosure in three parts Complainant's Requested 2012 Assessment Summary
3. R2	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.*

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand alone	Sales Approach	equity