

**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:

***Midsun Holdings Ltd. (as represented by Assessment Advisory Group Inc.)  
COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before:

***Board Chair, J. Zezulka  
Board Member 1, H. Ang  
Board Member 2, D. Julien***

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 2011 Assessment Roll as follows:

**ROLL NUMBER: 049008790**

**LOCATION ADDRESS: 3003 – 32 Avenue NE**

**HEARING NUMBER: 64841**

**ASSESSMENT: 6,120,000.00**

This complaint was heard on 30 day of August 2011 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Eight.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *P. Sembrat*

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

There were no procedural or jurisdictional matters to be dealt with.

**Property Description:**

The subject consists of the Sunridge Mazda automobile dealership premises. The building contains 24,650 s.f. comprised of a 4,215 s.f. showroom, and service repair garage. The building was constructed in 1990. The site area is 3.19 acres.

**Issues:**

The property is assessed using the cost approach. The assessed building cost is \$1,259,559. This total, added to the land amount of \$4,862,306, produces a truncated assessment of \$6,120,000. The total assessment calculates to \$248.28 per s.f. of building area.

The Complainant asserted that the income approach to value is the most appropriate method of valuation.

The Complainant questioned the year to year increase in the assessed value, which increased from \$4,710,000 in 2010 to the current level.

There are no other issues.

**Complainant's Requested Value:**

\$4,180,000 on the complaint form, amended to \$4,830,000 on the evidence submission. The requested assessment calculates to \$195.94 per s.f. of building.

The Board notes that the Complainant's requested assessment is lower than the current assessed land value, which the Complainant did not question or dispute.

**Evidence**

The Complainant submitted no market evidence of rent levels or improved property transactions. Rather, the Complainant appeared to rely entirely on the 2011 Business Assessment notice that indicated business rental rates of \$15.00 and \$18.00 per s.f. for the subject building. The Complainant then proceeded to apply a \$15.00 per s.f overall rate to the subject, with no allowance for vacancy, non-recoverables, or landlord's expenses, and a 7.5

per cent capitalization rate, to arrive at the requested assessment. No supporting evidence to substantiate any of the inputs was provided.

It is the Respondent's position that the cost approach to value is the best valuation method for automobile dealerships, and that valuation method has been applied to all automobile dealerships in the City. The Respondent supplied a copy of the cost calculations, which were not questioned by the Complainant. No support of the land value was provided, but the land value was not questioned by the Complainant.

It is the position of the Respondent that the Complainant did not meet the burden of proof.

### **Board's Decision**

This Board is not in a position to comment on the previous year's assessment. As such, this Board cannot pass judgement on the degree of change from last year to the current year.

As for the premise that income capitalization is the preferred method of valuation, this Board, in keeping with CARB Order #0522/2010-P, *"will not identify a preference as to which valuation approach should be used to determine the assessed value of any property. It is the assessed value that this Board is authorized to adjudicate. If any party can satisfy the Board, to the extent required by law, that in application of any applied approach to value errors have been made that have resulted in an incorrect assessed value, then it is those errors, supported by market based evidence, that should be given consideration"*. That is not to say that an alternative method of valuation cannot be applied. However, any alternative method must be as equally well founded in market evidence as the method already being employed. That is not the case in this instance. The Board finds that the Complainant's income calculations are flawed, in that the rent used was based on a single Business Assessment notice that may or may not reflect the typical rental value of the real estate. In addition, the Complainant failed to make the proper adjustments in arriving at a net operating income.

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 facie 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 the opinion of this Board, the Complainant did not meet the onus required to convince the Board that a change in the assessment is required or justified.

The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 13<sup>th</sup> DAY OF SEPTEMBER, 2011.

  
Jerry Zezulka  
Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

- 
1. C1 Complainant Submission of Evidence,
  2. R1 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.*
-

**For MGB Administrative Use Only**

Decision No. 2040/2011 - P			Roll No. 049008790	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB 2040	Retail	Stand alone	Income Approach v. Cost approach	