



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:

783858 Alberta Inc. (as represented by Michael Crowe), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER

A. Wong, BOARD MEMBER

R. Cochrane, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER:	048530620
LOCATION ADDRESS:	#28 – 2333 – 18 AV NE
FILE NUMBER:	70213
ASSESSMENT:	\$542,000

This complaint was heard on 2nd day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *M. Crowe – Owner/Complainant*

Appeared on behalf of the Respondent:

- *B. Brocklebank – Assessor – City of Calgary*

Regarding Brevity

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None

Property Description:

[3] The subject is a 2,800 square foot (SF) single-tenant industrial condominium unit constructed in 1997. It is located in the South Airways (SA2) industrial park. The subject has 1,192 SF of warehouse space; 1,080 SF of assessable ground floor finished area; 528 SF of finished mezzanine area; resulting in a total assessable area of 2,800 SF. The property is assessed at \$194 per SF, for a total assessed value of \$542,000.

Issues:

[4] What is the correct per square foot value to be applied to the subject's 2,800 assessable square feet?

Complainant's Requested Value:

[5] On his complaint form the Complainant requested an assessment of \$465,000 or \$166 per SF. However during the hearing the Complainant requested an assessment of \$504,000 based on \$180 per SF.

Board's Decision:

[6] The Board reduced the assessment to \$515,000 based on \$184 per SF.

Legislative Authority, Requirements, and Considerations:

[7] Under the *Municipal Government Act* (MGA), the Board cannot alter an assessment which is fair and equitable.

[8] MGA 467 (3) states:

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the valuation and other standards set out in the regulations, the procedures set out in the regulations; and the assessments of similar property or businesses in the same municipality."

[9] The Board examines the assessment in light of the information used by the assessor and the additional information provided by the Complainant. The Complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities. If the original assessment fits within the range of reasonable assessments and the assessor has followed a fair process and applied the statutory standards and procedures, the Board will not alter the assessment. Within each case the Board may examine different legislative and related factors, depending on what the Complainant raises as concerns.

Positions of the Parties

(a) Complainant's Position:

[10] The Complainant provided his Brief C-1 which contained a copy of the Respondent's "2013 Industrial Condo Sales Comparables". He argued that the three market sales used by the Respondent to value the subject are too old, and entirely dissimilar to the subject to be considered reliable in assessing the subject. Two of the three sold properties are in his condominium complex. He noted that one 2011 sale of unit #204 involved 2,730 SF of highly-finished upper floor space sold to an ethnic club at \$242 per SF. He also identified 2,734 SF of ground floor space in unit #3 which sold in 2009 for \$472 per SF as a fully-functioning car wash, which his unit is not. He argued that the remaining sale at 102 - 211- 36 AV SE for \$177 per SF and used by the City, is its "best" sale, and of comparable value to his unit.

[11] The Complainant argued that the value of the sale of unit #204 to the ethnic club, which occupies most of the upper area in the condominium complex, and has a very high level of finish, may be artificially increasing the assessment on the remaining units in the complex. He also argued that the higher indicated value of unit #3 - the mechanized car wash in the complex,

may also be artificially increasing the assessed values of other condo units in the complex. He suggested that comparing his unit to these two units is unfair to him and other condo unit owners.

[12] The Complainant argued that owning the subject has not been profitable as its assessed value appears to assume, because the unit has been vacant for over a year. He explained that he finally secured a tenant for the upper level of the subject for less than \$9 per SF, but the City has his unit compared to units getting \$18 per SF. He argued that he tried to rent out other space in his unit for \$12 per SF but has been unsuccessful and will now accept \$10 per SF. He also suggested that the location of his unit in the centre of the complex hinders his ability to find tenants for it. The Complainant clarified that he met with the Assessor in May of 2013 to discuss his concerns with the subject's assessment, but the matter was not resolved to his satisfaction.

[13] The Complainant submitted a four-page listing of "Non-Residential Industrial Sales July 2009 – June 2012" as copied from the City of Calgary website. He also submitted six different "Property Assessment Summary Reports" for selected industrial condo properties and compared the assessed values to their "sold" values, but provided few sale details. He also provided several MLS sheets detailing the sales values, and the comparative per SF assessed values, of various industrial condo properties in NE Calgary. He also provided several "Real Estate Listings" for industrial properties he considered similar to the subject, but assessed at a per SF value less than the subject. He concluded that on the basis of this evidence that his unit should be assessed at a comparable \$180 per SF.

(b) Respondent's Position:

[14] The Respondent provided his Brief R-1 and outlined for the Board and Complainant the various components which comprised the assessment of the subject. He also provided exterior photographs of the subject and confirmed he had not been inside it. He provided a matrix on page 15 of R-1 containing nine of the Complainant's comparable properties, and detailed the individual characteristics of each. He noted that at least five were *Post Facto* sales, with three occurring in 2013. He identified their individual per SF selling values which ranged from \$146 per SF to \$189 per SF. He noted that the assessable areas ranged from 2,102 SF to 4,414 SF whereas the subject is 2,800 SF. He also noted that the subject was assessed at \$194 per SF.

[15] The Respondent provided a second matrix on page 16 of R-1 containing seven more of the Complainant's sales comparables. He noted that the per SF sales values ranged from \$132 to \$223, whereas the subject is assessed at \$194 per SF. He noted the assessable areas ranged from 1,658 SF to 3,700 SF whereas the subject is 2,800 SF. He argued that the Complainant's data supports the assessment.

[16] The Respondent provided a third matrix on page 18 of R-1 containing the two market sales panned by the Complainant, both in the same complex as the subject. The first at #204 –

2333 – 18 AV NE was for the German Club identified by the Complainant. The second was at #3 – 2333 – 16 AV NE identified by the Complainant as the Car Wash facility. He argued that despite the uses in the units, they demonstrated market value for them.

[17] The Respondent provided a fourth matrix on page 19 of R-1 containing four additional market sales from NE Calgary industrial areas – only one of which was from South Airways like the subject. The market values ranged from \$196 per SF to \$217 per SF and the assessable areas ranged from 2,219 SF to 3,313 SF, as compared to the subject's 2,800 SF. The Respondent argued that these values support the \$194 per SF used to assess the subject.

[18] The Respondent provided a fifth matrix on page 20 of R-1 containing three additional market sales from NE Calgary industrial areas – none were from South Airways like the subject. The market values ranged from \$191 per SF to \$304 per SF and the assessable areas ranged from 1,512 SF to 5,451 SF, as compared to the subject's 2,800 SF. The Complainant challenged one sale value in the matrix at 4825 Westwinds DR NE, as representing both the property and business "goodwill" value. The Respondent argued in the contrary that these values support the assessment.

[19] The Respondent provided two more matrices on pages 22 and 23 of R-1 containing a total of nine assessment equity comparables from industrial condo units in NE Calgary. The matrix on page 22 of R-1 focused in particular on the individual assessed values for six of the units in the subject's condominium complex. The assessed values ranged from \$184 per SF to \$229 per SF and the assessable areas ranged from 2,730 SF to 2,896 SF. The Complainant again pointed out that one of the units assessed at \$229 per SF was the highly-finished second-storey German Club which, he argued, is not comparable to the relatively unfinished subject.

[20] The Respondent requested the assessment be confirmed at \$542,000 or \$194 per SF.

Board's Reasons for Decision:

[21] The Board finds that the subject has been compared by the Respondent for assessment purposes, to properties which have sold on the open market and are not similar to the subject. The Board notes from the evidence that units #3 and #204 in the "host" condo complex, are not similar to the subject unit #28 in fit and finish, and the subject has been improperly compared to them. This has produced an inequity.

[22] The Board finds that the Respondent has not been inside the subject to personally inspect and confirm and compare the individual fit and finish and related characteristics of the subject, to other units in the condominium complex to which the subject is being compared.

[23] The Board finds that the Respondent's assessment equity evidence on page 22 of R-1, which evidence is focused on the subject's condominium complex exclusively, indicates the

subject is over-assessed relative to other comparable units in the host condominium complex.

[24] Pursuant to [23] above, the Board finds that units #16 and #20 in the subject's condo complex, each display individual characteristics which closely mimic the subject in total warehouse SF area; fit and finish SF areas for both the ground floor and mezzanine areas; and in total assessable SF areas. For example, the total assessable area for unit #16 is 2,825 SF; for unit #20 is 2,896 SF and the subject is 2,800 SF. Units #16 and #20 are assessed at \$184 per SF whereas the subject is assessed at \$194 per SF. The Board considers this to be inequitable.

[25] The Board finds that the correct, fair, and equitable assessed value for the subject is therefore \$184 per SF, which produces a revised assessment of \$515,000 for the subject's 2,800 SF of assessable area.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF August 2013.


K. D. Kelly
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C-1	Complainant Disclosure
2. R-1	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*

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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	industrial	Condominium unit	market value	equity

