

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:

***S.M.T. EQUITIES LTD., COMPLAINANT
C/O DYNAMIC CONSULTING***

and

The City Of Calgary, RESPONDENT

before:

***BOARD CHAIR: P. COLGATE
BOARD MEMBER: P. PASK
BOARD MEMBER: J. MASSEY***

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:	040023004
LOCATION ADDRESS:	68 7930 BOWNESS ROAD NW
FILE NUMBER:	70899
ASSESSMENT:	\$2,020,000.00

This complaint was heard on 25th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 8.

Appeared on behalf of the Complainant:

- *The Complainant was not represented at the hearing*

Appeared on behalf of the Respondent:

- *Christine Neal, City of Calgary*

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

Preliminary Matter:

[2] The Respondent advised the Board there was no disclosure document submitted by the Complainant as stipulated in Matters Relating to Assessment Complainants Regulation AR 310/2009 (MRAC) section 4(1):

Disclosure of evidence

4(1) In this section, "complainant" includes an assessed person or taxpayer who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a local assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 21 days before the hearing date,

(i) disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the local assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

Failure to disclose

5(1) A local assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

(2) A local assessment review board must not hear any evidence that has not been disclosed in accordance with section 4.

[3] The Board found an issue had been raised on the complaint form with respect to the assessment market value versus the sale price for the subject property. Additionally, a requested value of \$900,000.00 was entered on the complaint form.

[4] The Board found the Complainant had failed to file the required disclosure document, but there was a question raised on the complaint form which could be addressed by the Respondent through their submission. The decision of the Board was to proceed with the

hearing to obtain the information.

Property Description:

[5] The subject property is improved with one three-storey office building constructed 1978, containing a net rentable area of 17,330 square feet. (R1, Pg. 4, RealNet) The assessment was based upon an income approach to value for \$2,020,000.00.

Issues:

[6] The issue before the Board was with respect to the market value of the subject property as the Complainant form stated the subject property sold for \$900,000.00.

Complainant's Requested Value: \$900,000.00**Board's Decision:**

[7] The decision of the Board was to confirm the assessment at \$2,020,000.00

Position of the Parties**Complainant's Position:**

[8] As no representative appeared for the Complainant, the Board accepted the complaint form into evidence. On the form was a request for a value of \$900,000.00 and the following statement;

"The property was sold for \$900,000.00 December 2012. Property is 1/3 vacant. Bowness is considered to be a rough area, high crime in Calgary". (C1)

[9] No other evidence was available to the Board.

Respondent's Position:

[10] As stated under the preliminary matter, the Respondent submitted the Complainant failed to follow the regulations as set out in MRAC and provided no evidence in support of the statement made on the complaint form.

[11] The Respondent submitted a copy of the RealNet report on the sale of the subject property. Special note was made of the sale price at \$900,000.00, as well as the information that the Sale Type was shown as Non-Arms and the directors for the vendor and purchaser had the same name – Tahir. (R1, Pg. 3)

[12] Further noted was a statement under the General Notes section – "This transaction involved a non-arm's length sale between affiliated parties". (R1, Pg. 4)

[13] Based upon the RealNet document the Respondent conducted a Corporate/Non-Profit Search in order to determine the directors associated with the vendor and purchaser. The search found the two directors listed for the purchaser, 1709403 Alberta Ltd., were also directors in the vendor corporation, S.M.T. Equities Ltd and that the balance of the directors in

the vendor corporation also appeared to be related having the same last name, Tahir.

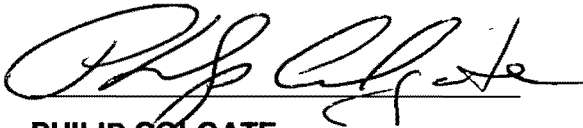
Board's Reasons for Decision:

[14] The Board found the Complainant had failed to submit the required documents in accordance with MRAC. The requested assessment was not supported by market or sales evidence to show the requested value was more reasonable than the current assessment value.

[15] The Board accepted the Respondent's evidence the sales was not an arm's length transaction and accordingly did not place any weight on the sale price.

[16] The decision of the Board was to confirm the assessment at \$2,020,000.00.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF September 2013.



PHILIP OELGATE

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Complaint Form
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 ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Low Rise	No Exchange	

LEGISLATIVE REQUIREMENTS**MUNICIPAL GOVERNMENT ACT****Chapter M-26**

1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Division 1**Preparation of Assessments****Preparing annual assessments**

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

289(2) Each assessment must reflect (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

ALBERTA REGULATION 220/2004**Municipal Government Act****MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) "assessment year" means the year prior to the taxation year;

Part 1**Standards of Assessment****Mass appraisal**

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.