

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:

McDonald's Restaurants of Canada Limited, (as represented by Colliers International Realty Advisors), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***R. Fegan, PRESIDING OFFICER
D. Julien, BOARD MEMBER
G. Milne, 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:	067203307
LOCATION ADDRESS:	1422 17 AV SW
FILE NUMBER:	70958
ASSESSMENT:	\$5,230,000

This complaint was heard on the first day of October, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- T. Howell, (Colliers International Realty Advisors Inc.)

Appeared on behalf of the Respondent:

- R. Ford, (City of Calgary)

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

- [1] No procedural or jurisdictional matters were raised.

Property Description:

- [2] The subject is a fast food restaurant (McDonald's) consisting of 7,540 square feet built in 1952. The parcel size is 23,805 square feet and the land use designation is Centre City Commercial Corridor (CC-COR). The subject property has been assessed based solely on the value of the land.

Issues:

- [3] The market value is too high because an incorrect method has been used to value the property.

Requested Value: \$3,640,000.

Board's Decision:

The complainant is denied and the assessment is confirmed at \$5,230,000.

Position of the Parties

Complainant's Position:

- [4] The Complainant argued that the subject property is an income producing property and should be assessed using the income approach to value.

- [5] The Complainant provided a rental analysis, for Fast Food Restaurants and Pad Site Restaurants as well as vacancy, operating cost and capitalization rate studies in support of the parameters used in the Complainant's income valuation. The studies presented by the Complainant had been prepared by the City of Calgary for the purpose of assessing other properties.

[6] The valuation parameters used by the Complainant to value the subject property were: (exhibit C-1, page 33)

Rental Rate	\$28.00 per square foot of building area
Vacancy Allowance	9.00%
Operating Expenses	\$12.00 per square foot
Non-Recoverable Expenses	1% of effective gross income
Capitalization Rate	5%

The market value estimate arrived using these parameters was \$3,641,096.

Respondent's Position:

[7] The Respondent argued that the value of the subject site was greater than the value estimated by the Complainant using the income approach.

[8] The Respondent provided five sales of vacant land or improved properties that were sold for redevelopment purposes (exhibit R-1, page 28). Three of these sales took place in 2011, one in 2012 prior to July 1st and one in 2012 after July 1st. These sales supported a base rate for land of \$220 per square foot which had been used to assess the subject property.

[9] The Respondent argued that no prudent land owner would sell their property for less than the market value of the land.

[10] The Respondent argued that to assess an improved property at a lower value than a similar sized vacant land parcel would create an obvious inequity.

[11] In support of this position the Respondent provided sixteen previous CARB decisions which dealt with similar issues. (CARB 2294/2012-P, CARB 2296/2012-P, CARB 1129/2012-P, CARB 1392/2012-P, CARB 1260/2012-P, CARB 2293/2012-P, CARB 0801-2011-P, CARB 2536/2011-P, CARB 1838/2011-P, CARB 1612-2011-P, CARB 2620-2011-P, CARB 1974/2011-P, CARB 2382/2011-P, CARB 1973/2011-P, CARB 2486/2011-P, CARB 2372/2011-P). In each of these cases the assessed values as determined by the Board were based on land value. CARB 1974/2011-P involved the 2011 assessment of the subject property.

Board's Reasons for Decision:

[12] The Board found that the \$28.00 market rental rate proposed by the Complainant had been taken from an analysis of five leases all located outside the Beltline area. None of the leases were for "free standing" fast food space.

[13] The vacancy rate study used by the Complainant included all retail space in the Beltline, not just fast food space and it was not limited to properties on the Seventeenth Avenue SW retail corridor.

[14] The Board was not satisfied that the income valuation parameters used by the Complainant adequately reflected the characteristics of the subject property, a free standing fast food outlet located on a commercial corridor.

[15] The Board noted that the land value rate used by the Respondent was not refuted by the Complainant.

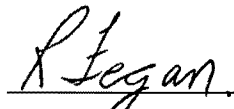
[16] MGA 1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a

willing buyer.

[17] The Board found that a prudent owner would not sell a property for less than the underlying value of the land.

[18] The Board agreed with the Respondent that to assess an improved property at a lower value than a similarly sized vacant parcel of land would create an inequity.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF October 2013.



R. Fegan

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.*

CARB Identifier Codes

Decision No.		Roll No.		
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Commercial	Restaurant	Market Value	Approach to value

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