

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 Ltd., (as represented by Colliers International Realty Advisors Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

**T. B. Hudson, PRESIDING OFFICER
R. Cochrane, BOARD MEMBER
D. Pollard, 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: 054014006

LOCATION ADDRESS: 3660 12 AV NE

FILE NUMBER: 70960

ASSESSMENT: \$2,540,000

This complaint was heard on 19th day of June, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *C. Lee*
- *S. Paulin*

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

[1] The Respondent objected to the Rebuttal disclosure document submitted by the Complainant. The Respondent requested that the CARB refuse to enter the document as an Exhibit, because the content did not rebut the Respondent's evidence and argument. In the Respondent's view the document introduced new evidence in support of a reduced assessment. The Respondent argued that the new evidence would prejudice their position, because they had not had an opportunity to prepare a response.

[2] The Complainant countered that there was no new evidence in the Rebuttal, however it does challenge some of the evidence in the Respondent's disclosure document, (ie Exhibit R2).

[3] The CARB decided that the Rebuttal document would be entered as Exhibit C3 in order to determine if the contents would enhance the Complainant's position, and/ or be prejudicial to the Respondent's position.

[4] After the review, the CARB concluded that the information contained in Exhibit C3 was not of sufficient weight to affect the position of either party.

Property Description:

[5] The subject property is a free standing McDonald's fast food restaurant located at 3660 12 AV NE in the Franklin community. The site area is 1.00 acres, and the improvement includes a net rentable area of 5,914 square feet(sf.), with an A- class quality rating. There is also 5,641sf. of storage space. The assessment was calculated using the capitalized income approach to value to a total of \$2,540,000 rounded.

Board's Decision:

[6] The assessment is confirmed at \$2,540,000

Issues:

[7] The only issue was the assessed rental rate of \$32 per square foot(psf), which the Complaint argued should be reduced to \$30 psf. The Complainant indicated that all of the other variables in the assessment calculation were acceptable.

Complainant's Requested Value: \$2,390,000.

Legislative Authority, Requirements and Considerations:

[8] The Composite Assessment Review Board(CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:

Section 460.1(2): Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

[9] For purposes of the hearing, the CARB will consider MGA Section 293(1):

In preparing the assessment, the assessor must, in a fair and equitable, manner,

- (a) apply the valuation and other standards set out in the regulations, and*
- (b) follow the procedures set out in the regulations*

[10] The Matters Relating to Assessment and Taxation Regulation(MRAT) is the regulation referred to in MGA section 293(1)(b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 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*
- (c) must reflect typical market conditions for properties similar to that property*

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

[11] The Complainant criticized the city-wide 2013 Fast Food Restaurants Rental Rate Analysis conducted by the Respondent (Exhibit C1 page 9).

[12] The Complainant argued that two of the rent rates out of the seventeen A &B class quality restaurants included in the analysis should have been excluded. This change would remove the rent rate of \$43.73 psf from a dated (2001) lease, and \$53.33 from a restaurant located at 7556 Falconridge BV NE, that is not free standing. The Respondent agreed to exclude the \$53.33 rate. The result was a reduction to \$30 psf. in the average rent rate for the fifteen remaining leases in the A&B quality class.

[13] The Complainant also noted that the City "consistently stratified Macleod TR as a distinct market zone" but included a \$31psf rent rate from this zone in their analysis.

Respondent's Position:

[14] The Respondent argued that the city wide analysis of current market rent for free standing A&B quality fast food restaurants was necessary and appropriate. The city-wide analysis was chosen based on equity, and because there were not enough free standing fast food restaurant leases signed after 2010 and prior to the July 1, 2012 valuation date, to analyze market rent by quality class and/or quadrant location.

[15] The Respondent also advised that they had been informed by the property owner that the lease rate of \$43.73 psf. identified by the Complainant as dated (ie. 2001), was being negotiated to a higher rate. The Respondent argued that it was therefore reasonable to include the current rate in the analysis.

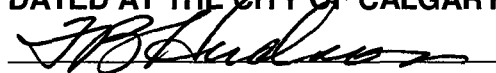
Board's Reasons for Decision:

[16] The Complainant provided little market evidence in support of a reduction to the city-wide assessed rent rate of \$32psf. for A&B quality class free standing fast food restaurants. The request for a reduction based on eliminating the lease rates used in the analysis prepared by the Respondent to fifteen from seventeen.

[17] The Board accepted the Respondent's position that the city-wide analysis should only be amended by removing the lease rate from the property that is not free standing.

[18] In summary, the Complainant failed to demonstrate that the results of their methodology provided a better estimate of market rent for the subject property.

DATED AT THE CITY OF CALGARY THIS 18th DAY OF July 2013.



T. B. Hudson

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R2	Respondent Disclosure
3. C3	Complainant Rebuttal

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

<i>Decision No. 70960P-2013</i>			<i>Roll No.054014006</i>	
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Sub-Type</i></u>	<u><i>Issue</i></u>	<u><i>Sub-Issue</i></u>
CARB	Retail	Free standing fast food	Market value	Market rent