



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:

PETER REICHHART, COMPLAINANT

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: 068200203
LOCATION ADDRESS: 1501 1 STREET SE
FILE NUMBER: 71236
ASSESSMENT: \$867,000.00

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:

- *Peter Reichhart, Owner*

Appeared on behalf of the Respondent:

- *Roland Urban, 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] There being no preliminary matters, the Board proceeded with the merit hearing.

Property Description:

[3] The subject property contains a one storey, house conversion (CS0501) constructed in 1912 (Owner's Testimony). The structure, rated as 'C' quality, is located at 1501 1 Street SE in the Beltline community. The structure, situated on a 0.08 acre parcel, has an assessable area of 1,680 square feet, designated 840 square feet of retail space and 840 square feet of basement storage space. There is an unknown amount of storage in the attic. The land use designation is Centre City Mixed Use District. The property is assessed on a sales comparison approach.

Issues:

The Complainant stated the issue is the market value assigned to the subject property and the failure of the City to take into consideration the problems associated with the property. Further the size allocated to the subject property is in error.

Complainant's Requested Value: \$650,000.00

Board's Decision:

[4] Based on the Board's review of the subject property and the assessment process applied to neighbouring properties, the Board decision is to apply a reduction to the assessment of the subject property.

[5] The Board revise the assessment to \$559,000.00

Legislative Authority, Requirements and Considerations:

[6] In the interest of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[7] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

[8] The Complainant, being unfamiliar with the process of the Assessment Review Board, was granted some latitude in the presentation of his submission.

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

[9] The Complainant presented to the Board a brief description of the subject property with reference to the land and the building:

- Built in 1912
- House converted to retail business – rubber stamp and engraving
- Low ceiling height (under 5.8 feet) in basement and attic limiting use to storage space
- Main floor area is 840 square feet (C1, Pg.5)
- Basement area is 840 square feet, with 5.8 foot clearance, dirt floor and field stone walls with no footings (C1, Pg.5)
- Attic is neither used nor permitted to for business use, with low ceiling and sloped roof.
- Four dormers allow some storage area.
- A 17 foot setback along 1 Street SE restricts any development on 1,139 square feet of the 3,350 square foot lot, or 34% of the lot area.

[10] The Complainant testified he met with the assessor for the City of Calgary on October 31, 2012 and was provided with the preliminary valuation for the property at \$527,940 or \$157.50 per square foot. (C1, Pg. 6) This value was revised to \$867,000.00 in the assessment notice of January 03, 2013.

[11] In discussion with the assessor the setback was acknowledged, but the Complainant was advised "there was no mechanism in place to account for the setback as they are not common".

[12] The Complainant submitted a copy of the site plan for the property (C1, Pg. 8) and a copy of an Engineering Department report for the conversion of the house to a retail store, dated March 9, 1988. The report stated there would be "no new buildings permitted within the bylaw setback or corner cut". (C1, Pg. 9)

[13] The Complainant submitted nine comparable properties in the vicinity of the subject property and submitted the Property Assessment Summary Reports:

Roll Number	Address	Assessed Value	Valuation Approach	Assessment Class	Property Type	Property Use	Sub property Use	Land Area	Building Area	Year Built
068200203 (Subject)	1501 1 St. SE	\$887,000	Sales Comparison	Non-Residential 100%	Land & Improvement	Commercial	House Conversion to Retail	3,352 sq. ft.	2,079 sq. ft. 'C' Class	1934
068200104	135 15 Ave SE	\$400,000	Sales Comparison (Land Only)	Residential 100%	Land & Improvement	Multi- Residential	Fee Simple – Apartment – Marginal	2,501 sq. ft.		
068200302	1503 1 St. SE	\$227,500	Sales Comparison	Residential 100%	Land & Improvement	Single Residential	House/ Bungalow/ 1 storey	1,649 sq. ft.	675 sq. ft.	1910
068199801	125 15 Ave SE	\$512,000	Sales Comparison	Non-Residential 100%	Land Only	Commercial		3,200 sq. ft.		
068200401	140 17 Ave SE	\$1,850,000	Sales Comparison (Land Only)	Non-Residential 100%	Land & Improvement	Commercial	Retail/Office	11,024 sq. ft.	8,154 sq. ft. 'C' Class	1965
201568748	139 17 Ave SE	\$1,770, 000	Sales Comparison	Non-Residential 100%	Land Only	Commercial		10,549 sq. ft.		
201731098	202 17 Ave SE	\$1,380,000	Sales Comparison (Land Only)	Non-Residential 100%	Land & Improvement	Commercial	Retail	8,246 sq. ft.	3,978 sq. ft & 3,261 sq. ft. 'C' Class	1911
068196906	203 15 Ave SE	\$3,270,000	Sales Comparison (Land Only)	Non-Residential 100%	Land & Improvement	Commercial	Single Tenant Office	19,487 sq. ft	8,810 sq. ft. 'B' Class	1980
079123600	1705 MacLeod Tr. SE	\$597,000	Sales Comparison (Land Only)	Non-Residential 100%	Land & Improvement	Commercial	Retail	3,558 sq. ft.	1,150 sq. ft. 'B' Class	1988
068140300	120 13 Ave SE	\$3,020,000	Sales Comparison	Non-Residential 100%	Land Only	Commercial	Surface Parking, No Improvements	18,905 sq. ft.		

(C1, Pg. 11-19)

Board Request of Respondent

[14] At this point in the hearing the Board asked the Respondent about the difference in the areas provided by the Complainant and the building area shown on the Property Assessment Summary Report. There appeared to be a significant difference between the Complainant's stated areas of 840 square feet on the main and 840 square feet in the basement, as opposed to the Property Assessment Summary Report showing 2,079 square feet.

[15] The Respondent expressed an opinion that there may be an error and wanted to research the difference before proceeding.

[16] The Board recessed the hearing for 45 minutes to allow the Respondent time to review the assessment.

Respondent's Position:

[17] When the hearing reconvened, the Respondent advised the Board he had found the error and its source. An Assessment Request for Information returned by the Complainant identified three spaces in the structure and their areas – 840 square feet for the main retail area, 840 square feet for the basement storage and 399 square feet for the upper storage space. The three areas had been combined and assessed as retail space.

[18] The Respondent submitted a revised value for the Board's consideration at \$701,000.00, based on the main floor retail and the basement storage area.

[19] The Board accepted the revised value for the assessment and advised the Complainant that \$701,000.00 would be the new assessment being considered by the Board.

[20] The Respondent presented its case by submitting a table of comparable sales that were used in the establishment of the assessments for house conversion.

Community	Address	2012 Assessment	Sale Date	Sale Price	ASR	Building Size (sq. ft.)	Quality	Influences
Hillhurst	342 14 St. NW	\$697,000	06/04/2012	\$710,000	098	1,584	C	TRM
Bankview	1909 17 Ave SW	\$995,000	03/03/2010	\$975,000	102	2,551	B	CRL TRM
Beltline	903 15 Ave SW	\$1,210,000	03/09/2010	\$1,400,000	0.89	1,905	B	MFY CMC TRM CRL
Subject								
Beltline	1501 1 St. SE	867,000 (\$701,000 Revised)	N/A	N/A	N/A	2,079 (Revised to 840 Main & 849 Bas't)	C	CRL TRM

(R1, Pg. 12-13)

[21] The Respondent submitted a second table into evidence which provided three equity comparables in the Beltline.

Community	Address	2012 Assessment	Building Size (sq. ft.)	Quality	Influences
Beltline	1501 Macleod Tr. SE	\$943,500	2378	B	CRL, TRM
Beltline	709 15 Ave SW	\$875,500	1592	B	MFY
Beltline	302 15 Ave SW	\$1,290,000	1680	B	CRL, TRC
Subject					
Beltline	1501 1 St. SE	867,000 (\$701,000 Revised)	2,078 (Revised to 840 Main & 849 Bas't)	C	CRL TRM

(R1, Pg. 14)

[22] The Respondent submitted the "Single Residential Valuation Methodology" into evidence to provide the Board with an understanding of the steps followed to determine the assessments for residential parcels. (R1, Pg. 10) To establish the market value, the City of Calgary used sales from a three year period.

[23] When asked by the Board, the Respondent stated the land rate for the area was \$167.00 per square foot.

[24] In response to the Board's question the Respondent stated there was no adjustment made for the large setback on the property as there were not enough sales to make a determination of the influence level.

[25] In summation the Respondent stated this was a unique case and it was difficult to provide good comparables.

Complainant Rebuttal

[26] The Complainant submitted an extensive review of the Respondent comparables for both the sales and the equity argument. (C2, Pg. 2-3)

[27] The Complainant stated only one sale of the Respondent's sale comparables was a recent sale, occurring June 4, 2012, while the remainder occurred in 2010. The Complainant also noted only one of the sales was in the same community of Beltline as the subject property and is superior in condition and location. A photograph of the comparable was provided. (C2, Pg.20)

[28] The Respondent presented a table analyzing the assessment of the sale comparables by dividing their respective assessments by both their land area and building size. The results were compared to the subject property indicating that the subject was assessed at a higher rate than the comparables.

[29] In response to the equity comparables submitted by the Respondent, the Complainant expressed his opinion that the properties were better quality as shown by their classification as B class buildings. The Complainant stated most of the equity comparables were "far superior in quality, featuring costly improvements.

[30] The Respondent presented a table utilizing the same analysis of the assessment of the equity comparables. The results were compared to the subject property indicating that the subject was assessed at a higher rate than the comparables. The results indicated a lower class property was being assessed at a higher rate than better quality structures.

[31] Additional photographs were submitted for the subject property both during and after the recent flood. Also photographs of two of the Respondent's comparables were provided. (C2, Pg. 19-25)

Board's Reasons for Decision:

[32] The Board extensively reviewed the evidence placed before it in making its decision. The Board found there were a number of factors which must be considered in the establishment of a fair market value for the subject property, when examining the sale and equity comparables provided:

- The house is a 1912 structure that has not been renovated since its constructed. This is apparent from the photographs and testimony submitted as to its physical condition. The basement is not able to be fully utilized as it suffers from low height, faulty walls and dirt floors.
- The setback on the property restricts development over 34% of the lot. In a large parcel this would not be a critical factor, but on a small lot the Board feels it must be recognized as a deterrent to marketability.

[33] The Board found the Respondent's comparables were simply not comparable to the subject property with respect to quality or location. Only one sale was a similar quality located in the community of Hillhurst, a different market area. Although the three equity comparables were located in the Beltline they were all admittedly better quality structures than the subject, being class B quality.

[34] The issue of size had been partially addressed by the Respondent in the revised assessment, but the Board does not agree with the inclusion of the basement area as storage space due to its condition and subject to flooding.

[35] The Board's decision was to assess the property as a Land Only property with the value determined at a rate of \$167.00 per square foot.

Board's Decision:

[36] The Board, based on its review of the submissions found sufficient evidence to justify the change to the assessment.

[37] The decision of the Board was to revise the assessment to **\$559,000.00**

DATED AT THE CITY OF CALGARY THIS 4th DAY OF September 2013.



PHILIP COLGATE
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. 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	Other Property Type	Speciality Property (House Conversion)	Sales Approach	-Land & Improvement

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.