

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:

1372463 Alberta LTD., (as represented by R. Mishra) 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:	200922722
LOCATION ADDRESS:	150 – 32 Westwinds CR NE
FILE NUMBER:	71526
ASSESSMENT:	\$387,000

This complaint was heard on 4th 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:

- *R. Mishra – Owner/Complainant*
- *S. Rikhi – Participant*
- *M. Sabbah - Participant*

Appeared on behalf of the Respondent:

- *F. Taciune – Assessor – City of Calgary*
- *M. Hartmann – 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] Mid way through the hearing, M. Sabbah, seated in the gallery, requested to join R. Mishra and S. Rikhi at the Complainant's table since he is the property manager for the complex containing the subject property. He suggested that he was able to verbally convey and confirm certain information regarding the purchase/sale of the subject by the Complainants. The Complainants requested that Mr. Sabbah be permitted to join them. The Respondent did not oppose this request. The Board permitted M. Sabbah to come forward to assist the Complainants.

Property Description:

[3] The subject is a 2006 (year of construction) single industrial condominium bay in a multi-bay industrial complex located in the Westwinds industrial area. The subject consists of 1,478 square feet (SF) of "unfinished" ground floor warehouse, and 322 SF of "finished" ground floor space. The total area of 1,800 SF is assessed at \$215 per SF for a total assessment of \$387,000.

Issue:

[4] What is the correct assessed value of the subject, given its purchase/sale on August 30, 2012 for \$325,000.

Complainant's Requested Value:

[5] The Complainant requests an assessment of \$325,000 based on the purchase/sale of the subject on August 30, 2012.

Board's Decision:

[6] The Board confirmed the assessment at \$387,000.

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 presented his Initial Complaint Form which contained an attached copy of an Alberta Real Estate Association "Commercial Real Estate Purchase Contract". The contract details the various conditions and particulars related to the purchase/sale of the subject. Referring to the dates in the contract, he noted that the transaction commenced August 30, 2012, and he ultimately took possession of the subject November 1, 2012.

[11] The Complainant explained that he purchased the property for \$325,000. He clarified that the sale had not been listed on the open market, and although he was "familiar" with the purchaser, he considered it to be an "arms-length" sale and a valid indicator of value for the subject.

[12] The Complainant provided and referenced an undated copy of one page of a second Alberta Real Estate Association "Commercial Real Estate Purchase Contract". This document was also attached to his Initial Complaint Form. It was related to an "Offer To Purchase" a condo unit abutting the subject in the same industrial complex. The "Offer To Purchase" unit 140 – 32 Westwinds CR NE was for a purchase price of \$345,000. He clarified that to his knowledge, this sale was not brokered or listed on the open market either.

[13] The Complainant noted that in the transaction for unit #140, the existing business being conducted onsite was also being purchased for \$25,000 and the unit itself for \$320,000 – both for a total consideration of \$345,000. Other details related to this transaction were hand-written on a second page and also included in the Complainant's Initial Complaint Form. The Complainant concluded that unit #140 by itself (without the business goodwill) was worth \$320,000 and this value supported his request for a lower assessment of \$325,000 for the subject unit #150.

(b) Respondent's Position:

[14] The Respondent presented his Brief R-1. He argued that the Complainant's sale of the subject unit #150 is a *Post Facto* sale, (i.e. occurring after July 1, 2012) and would not have been used by the City to calculate "typical" property values of industrial condo units for assessment purposes in the current assessment cycle. He also argued that the Complainant has confirmed that the purchase/sale of the subject unit #150 was not brokered or listed on the open market and hence is not a valid sale for assessment purposes.

[15] The Respondent clarified that the Complainant's sale comparable of unit #140 transacted April 30, 2012. However, he asserted that the sale of unit #140 does not appear to have been brokered either, and is further complicated by the inclusion of the "goodwill" purchase of an existing business operating there. He argued that the Complainant's sale comparable of unit #140 would not have been used by the City to calculate "typical" property values of industrial condo units for assessment purposes either.

[16] The Respondent provided a matrix containing eight market sales of comparable industrial condominium units which transacted between 2009 and 2012. He noted that all were in close proximity to the subject, with three being in the 32 Westwinds Cr NE condo complex itself. They were unit #225; unit # 331; and unit #140. He argued that except for unit #140, it was his information that all sales in the matrix had been offered (listed) for sale on the open market and were considered valid sales for assessment purposes.

[17] The Respondent referenced the individual characteristics of each of the eight property comparables, noting their assessable areas ranged from 1,781 SF to 1,994 SF with the subject at 1,800 SF. The years of construction (YOC) ranged from 2004 to 2008 with the subject's YOC being 2007. He noted the time-adjusted sale prices primarily ranged from \$373,703 to \$410,994, although one "outlier" sale was noted at \$629,402. The Respondent suggested that this latter sale value at \$629,402 appeared to be questionable, given the condo unit's comparatively smaller size. Nevertheless, he argued that the range of values created by seven of the eight sales comparables, support the assessment of the subject at \$387,000.

[18] The Respondent provided a second matrix containing six assessment equity comparables – all in the 32 Westwinds CR NE condo complex like the subject. He noted that the assessed values ranged from \$182 per SF to \$214 per SF with the subject at \$215 per SF. He argued that the subject fits into the range of assessed values for the complex, and therefore its assessment is considered to be fair and equitable.

[19] The Respondent requested that the assessment be confirmed at \$387,000.

Board's Reasons for Decision:

[20] The Board finds that the Complainant confirms that the sale of the subject – upon which the Complainant primarily relies in this hearing, was not a brokered sale, (i.e. listed on the open market).

[21] The Board finds that the sale of the subject, while considered by the Respondent to also be an arm's length sale, is not a valid sale for assessment purposes because it was not listed and advertised for sale to the public.

[22] The Board finds that the sale of the subject unit #150 as relied upon by the Complainant in this hearing, is a *Post Facto* sale (Post July 1, 2012) and would not have been used or considered by the Respondent in its analysis of the market for industrial condo units in the current assessment cycle.

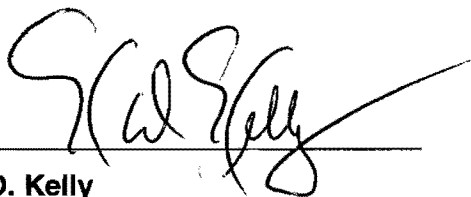
[23] The Board finds that the Complainant's property comparable sale of unit #140 in the same condo complex as the subject unit #150, given the testimony from the Complainant in this hearing, is also not a valid sale for assessment purposes because it does not appear to have been listed for sale on the open market. Moreover, the final sale value of \$345,000 for unit #140 – according to the evidence submitted by the Complainant in his Initial Complaint Form, includes a consideration of \$25,000 for the purchase of the "goodwill" for an existing business in unit #140. The Board does not consider this sale therefore to be a valid sale for assessment purposes.

[24] The Board finds that the individual and group characteristics of seven of the Respondent's eight condominium unit market sale comparables closely match those of the subject, and the resultant range of values generated therefrom support the assessment.

[25] The Board finds that the range of assessments for the Respondent's six assessment equity comparables – all of which are in the same condominium complex as the subject and display characteristics similar to the subject, support the assessment as being fair and equitable.

[26] The Board finds that the Complainant submitted insufficient information to demonstrate that the assessment of the subject unit #150 is either incorrect, unfair, or inequitable.

DATED AT THE CITY OF CALGARY THIS 31 DAY OF July 2013.



K. D. Kelly
Presiding Officer

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	industrial	Industrial condominium unit	market value	Sale of subject