



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:

Airstate 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: 071126452

LOCATION ADDRESS: 2840 Memorial DR SE

FILE NUMBER: 71787

ASSESSMENT: \$6,070,000

This complaint was heard on the 20th 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:

- *B. Peacock*
- *C. Hartley*

Appeared on behalf of the Respondent:

- *K. Buckrey*

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

[1] There were no procedural or jurisdictional matters raised by the parties.

Property Description:

[2] The subject property includes two free standing restaurant dining lounge facilities on a single 2.72 acre parcel, and is located at 2840 Memorial DR SE in the Meridian community. The first restaurant is a Swiss Chalet, and includes a net rentable assessed area of 8,526 square feet(sf.). The second, a Boston Pizza, a net rentable assessed area of 6,676 sf., for a combined total assessed area of 15,202 sf. The property is assessed using the capitalized income approach to a total value of \$6,070,000(rounded).

Board's Decision: The assessment is reduced to \$5,340,000(rounded), based on adjusted NOI of \$374,032, capitalized at 7%.

Issues:

[3] Should the subject's net rentable area be reduced to 13,776sf., as outlined in the 2012 Assessment Request for Information (ARFI)?

[4] Should the quality class rating of the Swiss Chalet restaurant be reduced to "B" and assessed at \$25 psf. of net rentable area?

Complainant's Requested Value: \$4,830,000.

Legislative Authority, Requirements and Considerations:

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)

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

*In preparing an assessment, the assessor must, in a fair and equitable manner,
Apply the valuation and other standards set out in the regulations, and
Follow the procedures set out in the regulations.*

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
must be prepared using mass appraisal
must be an estimate of the value of the fee simple estate in the property, and
must reflect typical conditions for properties similar to that property.*

Position of the Parties

Issue: Should the subject be assessed based upon the total net rentable area of 13,776sf., outlined in the 2012 Assessment Request for Information (ARFI)?

Complainant's Position:

[5] The Complainant presented the 2012 ARFI for the subject property, which reported the total net rentable area to be 13,776 sf.; inclusive of both restaurants (Exhibit C1 Appendices pages 3-5). However, the assessment was incorrectly calculated based on a total area of 15,202 sf.

Respondent's Position:

[6] The Respondent submitted a line drawing, a July 12, 2007 building permit application, and photographs, (Exhibit R2 pages 25-29), that support the assertion that net rentable area was added to the Boston Pizza restaurant sometime after 2006. However, the additional area was not picked up in the assessment until 2012.

Board Decision:

[7] The total assessed net rentable area of the subject property is confirmed at 15,202 sf.

Board Reasons:

[8] The before and after photographs submitted by the Respondent are the most compelling evidence that the Boston Pizza restaurant has added net rentable area to the structure since 2006. It was not clear why the ARFI does not reflect the increased area.

Issue: Should the quality class rating of the Swiss Chalet restaurant be reduced to a "B"; and assessed rental rate be reduced to \$25 psf.?

Party Positions:

Complainant Position:

[9] The Complainant argued that the Swiss Chalet restaurant is inferior in quality to the Boston Pizza restaurant. However, they are both classified as A quality and assessed at the typical rent rate of \$31 psf.

[10] Significant renovations to the Boston Pizza restaurant have resulted in an adjustment to the effective age of the building, to the extent that the Property Assessment Detail Report (Exhibit C page 9), published by the Respondent, reports the year of construction (YOC) as 2007.

[11] The Swiss Chalet has not been renovated since the original YOC of 1978, and the facility is very similar to many other comparable B quality class free standing restaurants built in the same era, and assessed at a typical rent rate of \$25 psf. of net rentable area, (Exhibit C1 page 8).

[12] The Complainant also submitted photographs comparing and contrasting the physical condition and visibilty of the Swiss Chalet with the renovated Boston Pizza ,and other A quality class free standing restaurants, (Exhibit C3).

Respondent Position:

[13] The Respondent submitted a building permit application dated August 31, 2011(Exhibit R2 page 30), seeking permission to do interior renovation and alterations to the Swiss Chalet Restaurant. However, there was no evidence confirming that the permit was actually issued or the work carried out.

[14] The Respondent also submitted the original and revised pad restaurant 2013 lease comparables for A, B, and C&D quality classes, (Exhibit R2 pages 32 and 33).

Board Decision: The quality class of the Swiss Chalet restaurant is reduced to B, and the assessed rent is reduced to \$25 psf. for the 8,526 sf. of net rentable area.

Board Reasons: The Board was satisfied by the evidence that the Swiss Chalet restaurant is most comparable to the B quality class free standing restaurants, built in the same era. The absence of any evidence of renovation or upgrading since the original YOC, was an important quality difference between the Swiss Chalet and the Boston Pizza.

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.*

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<i>Decision No. 70787P-2013</i>			<i>Roll No.071126452</i>	
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Free standing restaurants	Property size, rent rate	Quality class