



Calgary Assessment Review Board

DECISION WITH REASONS And DISSENTING OPINION

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:

***NATIONAL TRUST COMPANY LIMITED.
(as represented by Altus Group Limited), COMPLAINANT***

And

THE CITY OF CALGARY, RESPONDENT

Before:

***M. Chilibeck, PRESIDING OFFICER
D. Julien, BOARD MEMBER
E. Bruton, 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: 076050608
LOCATION ADDRESS: 3619 – 17 AV SE
FILE NUMBER: 72742
ASSESSMENT: \$1,130,000. Taxable

This complaint was heard on 22nd day of October, 2013 at the office of the Assessment Review Board in Boardroom 2 on Floor Number 4, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- *D. Main*

Appeared on behalf of the Respondent:

- *A. Hendrata*

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

[1] Neither party raised any objections to any member of the Board hearing the subject complaint.

[2] Neither party raised any procedural or jurisdictional matters.

Preliminary Matter:

[3] There were no preliminary matters.

Procedural Matter:

A dissenting opinion is attached at the end of the decision.

Property Description:

[4] The subject is a developed parcel of commercial land with 7,534 sq. ft. improved with a one storey commercial building with a basement constructed in 1967.

[5] The building has an assessed area of 5,395 sq. ft. of which 2,667 sq. ft. is main floor space and 2,728 sq. ft. is basement floor space. The basement space has 1,715 sq. ft. of finished space and 1,013 sq. ft. is unfinished space.

[6] The subject property is occupied by one tenant, Canadian Imperial Bank of Commerce.

[7] The subject is located at the south west corner of 17 AV and 36 ST in the Southview community located in the south east quadrant of the City of Calgary.

Issues:

[8] The Complainant identified two matters on the complaint form and attached a schedule listing several reasons (grounds) for the complaint. At the outset of the hearing the Complainant advised that only the matter of the assessment amount is under complaint and identified the following issue:

- 1) The subject assessment is in excess of its market value and the issue is:
 - i) The finished basement space should be assessed at the storage rate of \$2 per sq. ft. rather than \$10 per sq. ft.

Complainant's Requested Value: Per disclosure, \$890,000.
Amended at hearing, \$950,000.

Board's Decision: Confirm the assessment at \$1,130,000.

Legislative Authority, Requirements and Considerations:

[9] 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).

[10] 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*

[11] 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*

Assessment Background:

[12] The subject property is assessed by using the capitalized net income method. The subject building is categorized as Quality C and valued at a net market rental rate of \$27 per sq. ft. of main floor area, \$10 per sq. ft. of finished basement floor area and \$2 per sq. ft. of unfinished basement floor area.

Complainant's Position:

[13] The Complainant asserted that the basement space has no external public access; access can only be made from the interior of the main floor space. Also, the finished space is used by the bank for the storage of materials and office equipment except for the washrooms and lunchroom which are used by bank staff.

[14] The finished space was used by the bank for commercial banking purposes which accommodated bank customer service staff and tellers to service commercial customers. However, six years ago the bank changed its operations and the finished area is no longer used to provide service to bank customers.

[15] The Complainant, together with the Respondent, inspected the subject property the day prior to the hearing and provided the Board with several photographs of the basement area. The Complainant asserted that the photos show that the finished basement area is used for storage purposes by the bank.

[16] The Complainant provided two examples of where storage space is valued at \$2 per sq. ft. One example is a neighbourhood shopping centre with six buildings wherein is located a bank and the storage space is valued at \$2 per sq. ft. The other example is a free standing bank which is part of a power centre and the storage space is valued at \$2 per sq. ft. (C1, P-26 & 32).

[17] The Complainant therefore argued the finished area, categorized as "*Retail Below Grade*" by the Respondent, should be valued at the storage rate of \$2 per sq. ft.

Respondent's Position:

[18] The Respondent provided an Assessment Request for Information (ARFI) return from the owner which shows 1,715 sq. ft. of finished basement space (R-1, P-23).

[19] The Respondent provided photos of the basement space showing the finishing in the basement space and use of the space by the Bank.

[20] The Respondent advised that the Complainant's Crowfoot example of storage space has been corrected from \$2 to \$8 per sq. ft. for the 2014 assessment because the space is finished.

[21] The Respondent asserted the bank could use the subject finished space without much delay because the space has a finished floor, a finished ceiling, fluorescent ceiling lights, finished walls, electrical outlets and the desks, chairs and cabinets are in place.

Board's Reasons for Decision:

[22] The Board accepts the Complainant's assertion that bank staff use the washrooms and lunchroom located in the basement finished space.

[23] The photos show office furniture, such as tables, desks, chairs, filing cabinets, book shelves, white board, office dividers and printer situated in the finished area; this indicates to the Board that the finished space is used by the Bank as an extension of its main floor office; however, the use may not be on a daily basis.

[24] Therefore, the Board is not convinced the finished space is used strictly or primarily for storage.

[25] The Board does not agree with the Respondent's categorization of the basement finished space as "*Retail Below Grade*" as retail space used for the sale of commodities or goods to consumers. The Board views the finished basement space as office space where business is transacted and/or a service is supplied.

[26] Therefore the Board considered the finished basement space as an extension of the bank's main floor office. The issue is the terminology which in the opinion of the Board, should be addressed by the Respondent to eliminate any confusion and to more appropriately describe the premises.

[27] Based on the foregoing the Board confirms the assessment at \$1,130,000.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF NOVEMBER 2013.



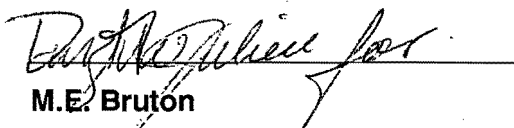
M. Chilibeck
Presiding Officer

Dissenting Opinion:

[28] As described in paragraphs 13 and 14 of the decision, the basement space serves no retail purpose, nor is there any physical connection or availability to what may be described as a retail market or the bank's retail marketing operations.

[29] The finished area in the basement, consisting of 1,715 square feet, may be viewed as an extension, for limited purposes, of the bank's business and office operations conducted on the main floor. However, as there is no direct retail component or exposure afforded this space, and when the assessment is predicated on the categorization of "retail below grade", it appears to be fatally flawed and should instead be viewed and assessed as storage space or inferior office space below grade.

DATED AT THE CITY OF CALGARY THIS ____ DAY OF NOVEMBER 2013.



M.E. Bruton
Board Member

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. C2	Complainant's Photos
2. R1	Respondent's Disclosure
3. R2	Respondent's Photos

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. 72742P-2013			Roll No. 076050608	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Commercial	Single Tenant	Income Approach	Rent Rate

FOR MGB ADMINISTRATIVE USE ONLY