

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:

Robert Mitchell, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER

A. Wong, BOARD MEMBER

R. Kodak, 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:	091500546
LOCATION ADDRESS:	105 – 1289 Highfield CR SE
FILE NUMBER:	72776
ASSESSMENT:	\$361,000 (Amended Annual Amount)

This complaint was heard on 23rd day of September, 2013 at the office of the Assessment Review Board located at Floor No. 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *R. Mitchell – Owner/Complainant*

Appeared on behalf of the Respondent:

- *J. Tran – 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] The Parties clarified for the Board that the original 2013 assessment was set at \$362,500. However, pursuant to discussions between the parties earlier in the year, the assessment was amended to \$361,000. The Parties confirmed that the amended value of \$361,000 is the correct value in dispute before the Board.

Property Description:

[3] The subject is a 1,535 square foot (SF) largely unfinished, 1998, single-tenant, single-unit Condominium industrial warehouse in the central Highfield industrial area. The property has a single front-entry overhead door and is used for personal storage by the Complainant/owner. The only "finished" area in the subject is a 48 SF washroom. The subject's 1,535 SF of assessable space is assessed at \$235 per SF for a total assessed value of \$361,000.

Issues:

[4] What is the correct per square foot value to be applied to the subject to calculate its overall assessed value?

Complainant's Requested Value:

[5] The Complainant requests that the assessment be reduced to \$328,000 based on \$213.68 per SF

Board's Decision:

[6] The Board reduced the assessment to \$328,000 based on \$213.68 per SF.

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 advised that the 2012 assessment for the subject had been reduced on appeal last year from \$339,500 to \$300,000 or \$197 per SF. The reduction was based in part on the Board's rejection of the Respondent's argument that his property comparables are similar to the subject (CARB 1386-2012-P – copy provided). It was also based on two market sales of properties similar to and in close proximity to the subject. He argued that in preparing the 2013 assessment for the subject, the Respondent appears to have not only ignored that decision, but is again comparing the subject to properties which are not similar to the subject at all, and are relatively remote from the subject in distance. Therefore, he argued, the subject's assessment is based on at least two fundamental errors and must be corrected.

[11] The Complainant argued that the best comparable to which the subject should be compared for value is the adjacent industrial condominium unit #104 – 1289 Highfield CR SE. While it is 1,691 SF larger than the subject, it sold in 2011 for a City of Calgary time-adjusted value of \$346,485 or \$205 per SF. He noted that this unit is assessed in 2013 at \$395,500 or \$233 per SF – an increase of 8%. He compared this percentage increase to the subject which he argued had increased in assessed value by 20% year-over-year. He also noted that had the Respondent utilized the base value established by the Board in CARB 1386–2012-P, the increase would have only been 8% as well.

[12] The Complainant argued that because there had been no recent sales of units in his condominium complex, he was able to find very similar equity comparable properties only three blocks away from the subject, to which the subject should be more properly compared. He provided the Board with exterior photographs and descriptive detail regarding three industrial condominium units built one year earlier than the subject, by the same builder who built his unit.

[13] The Complainant noted that the three nearly-identical units were located at #12; #27; and #35 - 5080 – 12A ST SE. Unit #12 is 2,064 SF and is assessed at \$428,000 or \$207.36 per SF. He argued that Unit #12 - except for it being slightly larger in size – is an exact replica of the subject. Unit #27 is 1,446 SF and is assessed at \$319,000 or \$220 per SF. Unit #35 is 1,505 SF and is assessed at \$272,000 or \$180.73 per SF. He reiterated that the subject is 1,535 SF and is assessed at \$235 per SF which is inequitable.

[14] Using the same exterior photographs of the subject, and his three property comparables at 5080 – 12A ST SE, the Complainant compared them to the seven property comparables provided by the Respondent on page 14 of his brief R-1. He noted their distinct differences in property characteristics (form and function) from those of the subject and his three nearby property comparables at 5080 – 12A ST SE.

[15] The Complainant argued that the Respondent's property comparables are in more remote locations and not at all close to the subject. Therefore they are subject to much different market forces affecting their values than the subject. He also argued that the Respondent's comparables are not comparable to the subject at all and this has resulted in an incorrect and inequitable assessment for the subject.

[16] The Complainant requested that on the basis of his analysis of properties he considered to be more comparable to the subject, the assessment of the subject should be reduced to \$328,000 or \$213.68 per SF.

(b) Respondent's Position:

[17] The Respondent provided his information brief R-1 and referenced a matrix containing a sample of seven "2013 Industrial Condo Sales Comparables" which he clarified were used – along with many others, to assess the subject. He argued that the sales represent market activity in an economic zone which is broader than just the area adjacent to the subject, and therefore are more indicative of market value for the subject.

[18] The Respondent outlined in detail, the specific individual property characteristics of each of his seven property comparables, comparing them to each other and to the subject. He argued that while four properties – #12 - 5918 - 5 ST SE (1974), and #'s 129; 125; and 105 – 519 – 34 ST SE (1965) – are significantly older than the subject (1998), nevertheless, their comparable sizes and recent sales prices provide a good indication of the value of the subject. He noted that the sale values of the seven properties ranged from \$387 per SF to \$431 per SF with an average value of \$322 per SF and a median value of \$307 per SF.

[19] The Respondent acknowledged under questioning that two of his property comparable sales contained 500 SF and 888 SF of finished mezzanine space whereas the subject had no mezzanine finish, only a 48 SF washroom. He suggested that if these two properties were removed from the list – i.e. #109 – 1289 Highfield CR SE and #105 – 5718 – 1A ST SW, the average value would increase to \$325 per SF and the median value to \$387 per SF. He argued that the range of values presented by his seven property comparables support the assessment at \$235 per SF.

[20] The Respondent suggested that while the form and function of his property comparables may appear from the exterior to be different from the subject as suggested by the Complainant, nevertheless he argued, they were capable of conducting business in a manner which not only reflects their value, but would be similar to the capabilities of the subject. Therefore, he argued, his property market sale comparables validly support the assessed market value of the subject.

[21] On page 16 of R-1 the Respondent presented a matrix containing seven assessment equity comparable properties – all from the same industrial condo complex as the subject. He noted that the assessed values of the seven condo units ranged from \$213 per SF to \$273 per SF. He suggested the differences in value within the same complex were attributed to variations in unit size, level of finish, and assessable area. He argued that the subject's assessment at \$235 per SF fits well within the range of values represented by these seven assessments and is therefore fair and equitable.

[22] The Respondent requested that the assessment be confirmed at \$361,000 or \$235 per SF.

Board's Reasons for Decision:

[23] The Board finds that in close examination of the individual characteristics of the Respondent's seven property sale comparables, they are not comparable to the subject as alleged by the Respondent. His comparable property at 105 - 5718 - 1A ST SW for example is part of a large and extensive two-storey complex developed with office and retail businesses. It is assessed as having 888 SF of finished mezzanine area and is approximately one-third larger than the subject at 2,199 SF. The subject however is only 1,535 SF in area with 48 SF of finished area. It is equipped with one overhead and one man-door front facade, completely unlike the Respondent's property comparable.


[24] The Board also finds that the Respondent's property comparables at #12 - 5918 - 5 ST SE (1974), and #'s 129; 125; and 105 - 519 - 34 ST SE (1965) - are significantly older than the subject (1998) and in the Board's view, are not comparable to the subject. Therefore the Board finds that in totality, the assessed value of \$235 per SF is not supported by the range of values calculated by the Respondent from his seven property comparables.

[25] The Board finds that the best market evidence presented by both parties is in regards to the sale of units #104 and #109 in the subject complex. The units are similar to the subject in terms of size, interior finish, age, and location. Unit # 104 transacted in 2011 at a time-adjusted sale price of \$205 per SF whereas Unit #109 transacted in 2010 at a time-adjusted sale price of \$216 per SF. While the average of the two values is \$210 per SF, the Complainant is requesting \$213.68 per SF based upon a similar analysis of sales and equity values of units in his complex, and another nearly-identical complex built by the same builder nearby.

[26] The Board finds that the Complainant's requested value of \$328,000 based on \$213.68 per SF for the subject's 1,535 SF is reasonable, given the evidence and argument before the Board.

[27] The Board reduces the assessment to \$328,000.

DATED AT THE CITY OF CALGARY THIS 16th DAY OF October 2013.



K. D. Kelly
Presiding Officer

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

NO.	ITEM
1. C-1	Complainant Disclosure
2. R-1	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.*

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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Industrial	Condominium unit	market value	Property comparables