



Composite Assessment Review Board

**REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 005-2011**

**IN THE MATTER OF A COMPLAINT** filed with the Regional Municipality of Wood Buffalo Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

**BETWEEN:**

Property Team Inc. - Complainant

- a n d -

Regional Municipality of Wood Buffalo - Respondent

**BEFORE:**

Members:

J. Noonan, Presiding Officer

S. Odemuyiwa, Member

L. Nordbye, Member

Board Administration:

N. MacDonald, Assessment Review Board Clerk

A hearing was held on August 20, 2011 in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider a complaint about the assessment of the following property tax roll number:

Roll Number: 71037340

Address: 101 - 11721 MacDonald Drive

Assessment: \$624,500.00

ARB file: 11-063

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

The subject is a commercial condominium unit occupying part of the ground floor of a highrise residential tower, itself part of a larger condo project containing another highrise and lowrise residential development. The subject condo contains 4373 sq.ft. of which 3536 sq.ft. was assessed, comprising a 1591.5 sq.ft. convenience store and until recently, an art gallery. Some 840 sq.ft. of space was unused when the art gallery operated, and this space was not assessed. At

## **REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 005-2011**

some point the art gallery ceased to operate, and an unlicensed boarding house functioned in the gallery area and the “unused” area. The boarding house operation was ordered shut down. The assessment carries forward the 3536 sq.ft. of space that was used when the convenience store and art gallery still operated. The assessment was prepared by the capitalized income approach using an annual typical lease rate of \$17.50 per sq.ft., vacancy allowance of 5%, management/structural allowance of 7%, and a 8.75% cap rate.

### **PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

The Complainant’s evidence disclosure letter advised that two representatives of the owner, a local real estate agent and a local appraiser would provide evidence at the hearing, either in person or by affidavit. The Complainant’s letter of rebuttal evidence, dated August 17, 2011, advised the CARB that there would be no personal attendance at the hearing; the Complainant would rely upon the documentary evidence submitted. As allowed by section 16(1) of the *Matters Relating to Assessment Complaints Regulation* (MRAC) 310/2009, personal attendance is not required and a party may file a written presentation. The Respondent was represented by Mr. M. Moore, Assessor, and the hearing proceeded.

### **PART C: ISSUES**

The complaint form advised, “Assessment is excessive given the market values and use of property. Per discussion with Assessor values established by sales in property not reasonably comparable to this unit. Discussed on April 27 and 28, 2011.” The requested assessment was \$450,000.

The CARB considered the complaint form together with the representations and materials presented by the parties. The CARB determined the sole issue before it was:

#### **Issue 1: Is the subject property assessed at greater than its market value?**

##### **Summary of Party Positions:**

The Complainant listed a number of concerns with the property that impair its value. Specifically, the property had no street frontage and low visibility to limited local traffic, recent rezoning by the Municipality allowed for increased competition from other main floor units in the area, construction activity by the Municipality created access problems, the 33 year old building had limited upgrades and an unfavourable reputation, commercial development had moved south along Franklin Avenue, and the unit itself was unfavourably demised, requiring significant upgrade to change the use of the space. As well, charges for condominium fees and utilities decreased profitability. For these reasons, the subject was not comparable to the properties advanced by the Assessor. In response to the Assessor’s brief, a letter of rebuttal noted higher vacancy than the 5% typical allowance, a much higher 30.8% expense ratio for condo fees (excluding the Reserve Fund contribution), utilities and property taxes as compared to the 7% allowance for management and structural costs, and a lack of response to the location and competition concerns.

## **REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 005-2011**

The Respondent interpreted the points regarding a zoning change that allowed for greater competition and the movement of commercial development to the south as statements addressing general commercial market conditions. The Assessor's brief explained that as part of the Municipality's process of preparing assessments, rental information is gathered from property owners throughout the municipality. The subject was grouped with comparable properties in the assessment base and the rental information analyzed to determine typical market rent for the group. Factors that affect lease rates include size, location, age, space type and condition. The Assessor has accounted for the subject's location as it was grouped with other non-arterial properties with low traffic exposure. As well, the property's age and condition was considered. The \$17.50 typical lease rate is the lowest rate applied to this type of property.

The Respondent addressed the use of the property by noting the information supplied by the owner through the Request for Information, updated with information in the rebuttal letter. The convenience store paid a gross rent of \$32.50 per sq.ft. and the owner pays utilities, taxes, and condo fees. These expenses were then allocated to the 3536 sq.ft. of assessed area and showed on a per sq.ft. basis the following: \$7.41 condo fees, \$2.21 utilities, \$1.19 property taxes, and \$0.36 maintenance for total expenses of \$11.16 per sq.ft. and a net rent in excess of \$21.

Although the assessment had not been prepared by the sales comparison approach, the Assessor had referenced in discussion with the Complainant three sales of commercial condo units in the year prior to valuation date. The sales were presented again: two smaller units of 1362 and 1675 sq.ft. in the Thickwood neighbourhood, north of downtown, sold for \$418 and \$440 per sq.ft. as compared to the subject's assessment of \$176 per sq.ft., or \$142.81 if one used the entire 4734 sq.ft. area. A third sale on Franklin Avenue was a much larger unit, 17,738 sq.ft. that sold for \$168 per sq.ft. The assessment recognizes the characteristics and physical condition of the subject, resulting in a value less than half that indicated by the closest comparables in size. The Complainant had not undertaken the necessary analysis to demonstrate the assessment is in excess of market value. The requested value was not supported by any evidence or analysis. The burden of proof rests with the Complainant to provide sufficiently convincing evidence on which a change in assessment can be based.

### **Findings and Reasons:**

The Complainant has not shown the subject is assessed at greater than its market value.

The Complainant has advanced a list of concerns, mostly related to location challenges that may well have an impact on market value as compared to other properties. The only evidence before the Board relating to market value came from the Respondent, and it showed that newer, better-situated, and smaller commercial condo units sold for well over double the assessed per sq.ft. value of the subject. The Respondent is correct: onus has not been met. The Complainant has not provided convincing evidence to show the assessment is in error and must be changed.

**REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 005-2011**

**DECISION:**

The complaint is denied and the assessment is confirmed at \$624,500.

It is so ordered.

Dated at Fort McMurray in the Province of Alberta, this 16<sup>th</sup> day of September, 2011.

FOIP Act s.17(1)

A large black rectangular redaction box covers the signature of the Presiding Officer. The text "FOIP Act s.17(1)" is written in red above the redaction.

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J. Noonan, Presiding Officer

**REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 005-2011**

**APPENDIX “A”**

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

<b>NO.</b>	<b>ITEM</b>
1. Exhibit 1C	Summary of Testimonial Evidence, photos, plan (7 pages)
2. Exhibit 2C	Complainant’s rebuttal letter (2 pages)
3. Exhibit 3R	Respondent’s 2011 Assessment Brief (42 pages)

**APPENDIX ‘B’**

ORAL REPRESENTATIONS

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1. Matthew Moore	Regional Municipality of Wood Buffalo Assessor