



## Assessment Review Board Report

### **Establishment and Function of the ARB**

The Calgary Assessment Review Board (the ARB) is an independent tribunal established pursuant to section 454 of the *Municipal Government Act*, RSA 2000 Chapter M-26 (the MGA), and is governed by the MGA, the *Matters Relating to Assessment Complaints Regulation, 2018*, AR 201/2017 (MRAC), and by Calgary Bylaws 15M2018 and 3M2023.

The ARB is an impartial and specialized tribunal with authority to review residential and non-residential property assessment notices issued by the assessor of the City of Calgary. Given the annual number of complaints filed against assessments, the value of the annual assessment roll under complaint, and the significant role of property taxation in funding services for the City of Calgary, the ARB plays an important role in upholding public confidence and trust in a fair and equitable assessment system. The ARB has a duty to be fair, transparent, and equitable with all parties to the assessment review process, regardless of the number of complaints it hears or the value of the property under complaint.

ARB members are appointed by Council, but we are not City employees. The ARB relies on the facilities and staff provided by the City to support the operations of the ARB in a competent and effective manner, and as directed by the General Chair. The ARB strives to maintain a respectful and productive working relationship with ARB administration who are City staff while protecting its institutional independence from the City of Calgary to prevent any perception, in the eye of the public or any party appearing before the ARB, of improper influence or improper alignment of interests.

The independence of the ARB is a public interest. Property owners seeking an assessment review, and the assessors who appear before the ARB to defend the assessment, are entitled to be heard by an independent, unbiased and impartial panel of the ARB. As identified by Justice Eidsvik in *Altus Group Ltd. v. Calgary (City)*, 2013 ABQB 617, the independence of the ARB is dependent on three foundational pillars: administrative control, security of tenure and financial security.

### **A Review of the 2022 Hearing Year**

#### **Complaint Volume**

A total of 1,995 property assessment complaints were filed by the March 14, 2022 complaint deadline. The 390 complaints that were filed on residential properties and development land



were scheduled for hearing before the local assessment review board (LARB). The 1,605 complaints that were filed on non-residential properties were scheduled for hearing before the composite assessment review board (CARB). An additional 53 complaints on supplementary and amended assessments were filed after March 14.

The volume of LARB complaints filed in 2022 was approximately 25 percent lower than in 2021, and the volume of CARB complaints was approximately 14 percent lower than in 2021.

### **Assessed Value Under Complaint**

The total combined value of non-residential and residential properties under complaint in 2022 was \$14.5B, \$4.8B lower than the combined value under review in 2021 (\$19.3B). The total value of non-residential property complaints was down to \$13.7B in 2022 from \$18.7B in 2021. The median non-residential assessment amount under complaint was \$4.3M, while the average assessment amount was \$8.6M. The highest assessment amount under complaint in 2022 was \$418.1M for an office property in Eau Claire. Approximately 11 percent of all taxable non-residential accounts were under complaint in 2022, which represented 24.5 percent of the assessed value for the entire taxable non-residential roll.

The total value of residential assessments under review in 2022 was \$712.6M, and approximately two-thirds of this value (\$470.9M) was from complaints filed against the assessment of residential development land. 2022 marked the lowest number of residential property complaints in the 24 years since market value assessments began in 1999. Less than 0.1 percent of all taxable residential accounts were under complaint, likely due to a very robust spring housing market with rapidly escalating prices.

### **Reintroduction of the In-Person Hearing Option**

With the lifting of provincial health restrictions after the March 14 filing deadline, the ARB was able to reintroduce the option of in-person hearings in 2022. ARB Leadership and its support staff had worked closely together prior to the start of the 2022 hearing season to consider the logistics of providing in-person hearings while protecting the public health and safety of the parties, the administrative staff and ARB members. Two of the largest hearing rooms were rearranged to provide increased distancing between parties and panel members, and another larger hearing room was converted for use as a public waiting area. Less than twenty percent of hearings were conducted in person, partly because the provincial health restrictions weren't lifted until after the hearing format option was selected by the complainants. The default hearing option was a videoconference hearing for complainants that did not specify a hearing preference, or in the event provincial restrictions remained in place to prevent in-person hearings.



ARB Leadership canvassed the members to determine which members were available and willing to conduct hearings in person again. Some local members were enthusiastic to return to in-person hearings and some were more tentative, particularly those with family members with health issues. Newer members were encouraged to participate in-person hearings so they could obtain the additional benefit of working in person with more experienced members. Informal interaction and mentoring were features of our work that were diminished by remote work during the pandemic, and we were pleased to see the benefits of that informal interaction return with the reintroduction of in-person hearings.

Some of the parties who attended in-person hearings expressed how much they appreciated being able to present their evidence in person to the panel, as the in-person format typically allows for a more dynamic presentation of evidence that leads to more engaged questioning. We also heard very positive feedback from members, especially our newer members, who found the in-person hearing format to be more immersive and beneficial for their learning and development. ARB members who joined in 2020 or 2021 had only participated in hearings remotely using Microsoft Teams, and they had not had the opportunity to meet their fellow ARB members or to see the ARB office and hearing rooms in person. ARB Leadership also took the opportunity to spend additional time in person with members first appointed in 2020, 2021 and 2022 to provide more focused mentoring and training. This was found to be very beneficial.

With the return of in-person hearings, a total of four hearing options were available to the parties: in-person, videoconference, teleconference and written hearings. In 2022 videoconference hearings were the most frequently selected format, while written and teleconference hearings were chosen by those who desired a simpler or less technically involved process.

There was however a marked difference in hearing format preferences between the LARB and CARB complaints. Complainants appearing before the LARB are mostly self-represented residential property owners, and this group preferred the videoconference format (47.1 percent in 2022) with the remainder of hearings being conducted in person (19.8 percent), by written hearing (16.9 percent) and teleconference hearing (16.2 percent). The ARB was pleased that each of the four hearing format options were well received by the residential property complainants.

Over 95 percent of CARB complaints are filed by tax agents, and these non-residential complainants overwhelmingly opted for videoconference hearings (82.8 percent) with a second choice of in-person hearings (15.5 percent). Written and teleconference CARB hearings accounted for less than two percent combined.



## **Proficiency in Electronic Hearings**

So much progress has occurred since 2019 when the ARB first transitioned from paper document submissions to the panel for exclusively in-person hearings to a paperless, electronic format for evidence and submissions.

The pandemic in 2020 required the ARB to quickly pivot to electronic hearings, which were continued in 2021 due to ongoing provincial health restrictions. ARB members embraced the challenge and opportunities offered by technology, we found new and efficient ways to communicate with each other and accomplish our tasks. By 2022 ARB members and parties appearing before the ARB had become quite capable and accustomed to the use of technology, so the electronic complaint hearings proceeded smoothly, apart from the occasional technical glitch which was usually quickly rectified.

By 2022, most members were very competent using Microsoft Teams, and their skills in writing and editing decisions online continued to develop. Many members have embraced remote work and appreciate the convenience of a working day without a two-way commute through traffic. ARB Leadership has observed that members with lower levels of proficiency with technology benefit more from the opportunity to conduct their work at the ARB, which allows them to focus on the important hearing work without technical distractions.

ARB administration arranged to have a dedicated City IT person assigned to troubleshoot and resolve member technology issues, which can unexpectedly arise at critical times. This resource worked very well for members and provided appreciated support. We look forward to continuing this arrangement for the 2023 hearing season.

## **2022 Hearing Season**

The 2022 hearing season began with LARB hearings on April 25<sup>th</sup>. The hearings went smoothly and the majority of the LARB hearings were completed by June 3<sup>rd</sup>.

CARB hearings commenced on June 6<sup>th</sup> and continued until late October. Numerous CARB hearings were cancelled when withdrawals due to mutual agreements were entered. The cancelled hearings resulted in an unavoidable but inefficient hearing schedule where ARB members often found their hearings cancelled with little notice. Overall, 85.5% of the non-residential complaints that were filed were withdrawn prior to a hearing. This necessitated many adjustments in the hearing schedule and ARB leadership had to continually revise member assignments.

The ARB completed its hearing agenda and issued all decisions by late November.



## **ARB Membership and Development**

In 2022 approximately 36 local ARB members and 15 provincial members participated in Calgary ARB hearings. Several local ARB members were unable to sit on any hearings as they had unforeseen commitments competing for their time.

Leadership continued to focus on training for ARB members. Refresher training sessions were offered to all members on the use of Teams and ARB document management workflow. Ongoing mentoring and support were provided to individual members as needed.

There was a continued, ongoing focus to improve the quality of the ARB's written decisions to ensure they were thorough, clear and transparent. Leadership worked with members to improve decision-making skills, and to develop new decision writers and presiding officers.

New processes were introduced to make workflow tracking more transparent and to improve the timeliness of decision writing, decision reviewing and finalizing of decisions. All the LARB written decisions and nearly all CARB written decisions were issued with 30 days of the hearing. This is an accomplishment for a tribunal which deals with a high number of complaints, deals with assessment complaints on residential properties with unique characteristics, and hears non-residential files which can be quite complex. Only seven of the 438 decisions issued in 2022 (1.6 percent) were brought by a party for judicial review to the Court of King's Bench. We believe this is a testament to the high quality of ARB decisions.

The Calgary ARB Annual Spring Training Conference was conducted remotely over two half-day sessions in late April 2022. Local ARB members, provincial members and ARB members from other municipalities in southern Alberta benefitted from presentations on interesting ARB hearings, updates on court decisions and property valuation approaches. As the largest assessment review board in Alberta, the Calgary ARB continues to be viewed as a model for expertise and innovation.

One of the hallmarks of the ARB has always been the exceptional character, cohesiveness, and camaraderie of its members. The remote hearing environment introduced during the pandemic reduced the opportunities for interpersonal interaction of members, so when provincial health restrictions were eased ARB Leadership provided several opportunities for local and provincial members to come together and rebuild as a team. In July, a summer barbeque picnic was organized in Bowness Park, and again in early December a morning and light refreshment gathering was held in the ARB conference room to reintroduce members in the office. Both were very successful events and were well attended by around 40 local and provincial members.



## **2023 Work Plan**

### **Complaint Volume**

At the 2023 complaint filing deadline of March 13<sup>th</sup> a total of 2,051 complaints were filed: 1,491 on non-residential properties; and 560 on residential properties. Non-residential complaints are down 7.2 percent over 2022, and residential property assessment complaints are up 41 percent, with an increase in total complaints of approximately two percent over 2022. The volume of residential complaints this year is a return to a more typical level, with the historically low 2022 complaint volume likely due to the robust price increases in the housing market in 2021. The slightly lower volume of non-residential complaints may indicate that the tax agents have been working with the City assessors to settle issues in advance of filing complaints. The ARB hopes this will lead to fewer last-minute hearing cancellations and a more predictable hearing schedule in 2023.

### **Anticipated Hearing Season**

LARB hearings commenced on May 1st and CARB hearings will start on June 12<sup>th</sup>. Due to a similar complaint volume to 2022, the 2023 hearings should most likely be completed in early to mid-October with all written decisions issued by mid-November.

### **Four Options for Hearing Formats**

The ARB continues to offer four hearing format options: in-person, videoconference, teleconference, and written hearings.

For 2023 hearings, 36.3 percent of residential complainants have opted for a videoconference hearing. Written hearings account for 26.6 percent, 23.3 percent are scheduled to be heard in person and 14.8 percent are scheduled for teleconference hearings. These numbers show an interest in each of the hearing formats and helps to assure us that the ARB is meeting our objective of enhancing access to the assessment review process for all Calgarians.

For CARB complaints in 2023, 81.0 percent of all hearings will be conducted by videoconference and 17.8 percent will be conducted by in-person hearings. Only a very small number of CARB hearings will be conducted by teleconference and written hearing format.

The ARB has twelve hearing rooms in its space at 1212 31 Ave NE. At the time of writing this report, three of the ARB's twelve hearing rooms are set up for in-person hearings and another two are configured to conduct videoconference or teleconference hearings. Since LARB hearings commenced on May 1, six panels have conducted in-person hearings, each scheduled over a three-day period (Monday to Wednesday). Several members have also attended at the ARB to conduct their electronic and written hearings from the ARB hearing rooms. For instance,





during the week of May 15 four boardrooms were being used for complaint hearings – one by a panel conducting in-person hearings with personal attendance by the parties, a second by a panel conducting videoconference hearings with parties who connected remotely, a third hearing room was used by a single member for teleconference hearings while the other two panel members were offsite, and the fourth hearing room was used by a panel deliberating on written hearings.

We recognize the convenience and ease for members to conduct electronic hearings from their own homes or offices, but we also recognize that the quality of those electronic hearings depends on the experience and technical proficiency of individual members. We therefore encourage newer members or members with less robust equipment or lower computer proficiency to attend at the ARB to conduct their work. We are hopeful that the staff supporting the ARB will support the return of ARB members to our physical space and will commit to configuring more hearing spaces to meet the updated needs of ARB members to conduct not only in-person hearings, but also electronic and written hearings from the ARB.

### **Stakeholder Engagement and Transparency**

The ARB held a meeting with tax agents and the Assessment and Taxation Business Unit (ATBU) in late March of this year to outline expectations, review ARB policies, and to listen to any concerns and suggestions of the parties for improvement in the hearing process. The meeting was held in person at the ARB office, and it was well attended by both tax agents and assessors who found this to be a worthwhile and informative session. The opportunity to gather in person as a group and ask questions and hear concerns was appreciated by the attendees and by ARB Leadership.

The ARB updated and issued its Procedural Rules and Policies for Board Members in April 2023. These have been distributed to the ATBU, to tax agents, and have been posted on the ARB website. In addition, every ARB member is required to acknowledge in writing that they have read and understood the Procedural Rules and Policies for Board Members. The Procedural Rules and Policies for Board Members both provide consistency and clarity for parties and members, and we hope they enhance the public confidence in the expertise of members, and the independence and fairness of the hearing process at the ARB.

### **Membership, Development and Training**

There are currently 33 members serving on the ARB for the 2023 hearing season. 34 members were appointed by Council in October 2021, but one subsequently resigned to join a provincial board. In total, six ARB members who served in 2022 either chose to retire or left for other work. The key reason cited by those leaving was the high number of cancelled CARB hearings due to complaint withdrawals that created very unpredictable hearing schedules for members.



The ARB is trying to mitigate the effects of last-minute hearing cancellations on members. Members are encouraged to check the online hearing calendar for the most up-to-date changes to the schedule, and panel assignments are made with shorter advance notice. The shorter notice causes some inconvenience for members but helps to reduce the incidence of assigning members to hearings that are ultimately cancelled.

In response to the decreased CARB hearing volume, membership has decreased to 33 members in 2023. This is the fewest number of Calgary ARB members since the 2010 change to the MGA that required the establishment of a LARB and a CARB board for each municipality. ARB Leadership has also reduced from three members – the General Chair, a first Vice Chair and a second Vice Chair, to two members – the General Chair and a Vice Chair. The option remains to appoint a second Vice Chair if demand increases, or new projects or reorganization require that position to be filled.

The ARB held its annual spring training conference on April 26 for local ARB members, provincial members who participate in Calgary non-residential hearings, and a number of ARB members from southern Alberta municipalities. For the first time since 2019 local ARB members and Calgary area provincial members were able to attend the conference in person. The full-day session was held in the large main floor hearing room at the ARB and was attended by 40 members in person, with another 40 participants connected remotely by Teams. This was the first hybrid in-person / videoconference event hosted by the ARB. The combined format and technology worked very well and the in-person and remote audience were able to share the experience, engage in questions with the speakers, and interact with each other. Presentations included a review of recent case law, a review of the recent Court of Appeal decision on consideration of the sale of the subject property, an update on the Alberta economy and housing market, and a review by panels of interesting complaints heard at the ARB in 2022. It was a valuable training event, and the ARB appreciates the contribution by some of the ARB administration staff who assisted in setting up and monitoring the technology to support remote participation, ordered lunch for attendees, and provided refreshments for morning and afternoon breaks.

## **Challenges**

Managing panel assignments for non-residential hearings continues to be a significant challenge given the high number of complaints that are withdrawn due to settlement, often shortly before the hearing date. As previously noted, 85.5% of non-residential files were settled prior to hearing in 2022, reflecting reductions negotiated on 1,221 non-residential complaints. The \$650 CARB complaint filing fee was refunded for each of these files. These 1,221 properties represent 8.4 percent of all taxable non-residential accounts and 24.5 percent of the total taxable non-residential roll.





While the ARB recognizes the benefit of these agreements, the numerous cancellations create inefficiencies in managing the ARB's resources with the volume of scheduled complaints, and the legislated requirement to complete all hearings and issue written decisions by the end of each year. Since MRAC requires hearing notices to be issued at least 70 days (approximately 2.5 months) in advance of a hearing, the ARB has very limited ability to fill openings in the hearing schedule due to these settlements between the parties. The ARB has concerns regarding member retention and a potential loss of experienced members due to the inconvenience of cancelled hearings. The lower volume of hearings also provides fewer opportunities for newer members which can delay development of important member skills.

The timing of the current recruitment process conducted by the City's Boards, Commissions and Committees (BCC) is also a challenge in attracting new ARB members. The ARB is the busiest board, committee, commission or tribunal in the City and it appoints the most members each year. Due to the annual assessment and assessment review timelines established by legislation, the ARB is the only BCC with a distinct hearing season. The most recent recruitment campaign commenced in mid-August 2022, even though any new ARB members would not participate in hearings until more than eight months later, in the beginning of May. In 2022 two of the five newly appointed ARB members resigned by the time hearings began in May because their circumstances had changed in the intervening months since their application. The screening, interviewing and selection of candidates also occurs during September, which is a very busy month at the ARB for hearings and decision writing. ARB Leadership proposes a later start to the recruitment process in late September or mid-October, as was practiced in previous years.

The ARB remains committed to providing fair hearings and to issuing fair and reasoned decisions on property assessment reviews. The ARB is equally committed to maintaining its institutional independence to meet the public expectation and right to be heard by an independent and impartial board that is not perceived as influenced by or functioning as part of the City. This is a unique challenge since the City of Calgary is the respondent in all assessment review complaints, but the ARB also relies on the facilities and the ARB administrative staff provided by the City to support the ARB.

Public confidence and trust in the ARB is based on its impartiality and institutional independence. As we - ARB Leadership, ARB administrative staff and ARB members - readjust to post-pandemic working life, we are reminded of the need to maintain and preserve the hallmarks of the ARB's independence - administrative control, security of tenure and financial security. A decrease in personal interaction and a reliance on ARB administrative staff for technical support for electronic hearings during the pandemic, increased withdrawals resulting in fewer hearings, recent ARB administrative staff changes, administrative position realignments, and redesignating of ARB public space to City administrative space have all contributed in part to a perceived diminished commitment to the three hallmarks of independence.



The ARB is hopeful that further dialogue and discussion with ARB administrative staff will lead to a renewed joint commitment to uphold and support the independence of the ARB and to address some of the operational concerns recently experienced.

### **The ARB Outlook for 2023**

The ARB is committed to providing fair hearings, enhanced access to justice through multiple hearing formats, clear and accurate communication to parties and the public, and equality in the application of its policies. The ARB will continue to consider opportunities to improve its operations and enhance the fairness and efficiency of its hearing processes.

ARB Leadership will continue to focus on training and enhancing hearing, writing and decision reviewing skills for all members. Daily morning meetings, conducted over Teams and in-person, will continue during the 2023 hearing season to maintain communication, provide support and keep ARB members current with ongoing developments and trends in property assessment complaint hearings.

ARB Leadership will continue to recruit the best members available and will focus on their development and retention. The ARB will also strive to continue providing written decisions within 30 days of the hearing that clearly explain the reason for any change to the assessment roll. We will also seek to improve the transparency of all changes made to the assessment roll by publishing the result of any change made to an assessment that is the subject of a filed complaint.

We look forward to a successful year in 2023.

The ARB will be available to answer questions and will provide a PowerPoint slide presentation with key operational statistics in a graphical format at the June 14th meeting of Council.