

**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-26.1, Section 460(4).

between:

Rickard Realty Advisors, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

Ed Reuther, MEMBER

Dick Cochrane, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 054015508

LOCATION ADDRESS: 1313 – 36 Street N.E.

HEARING NUMBER: 57615

ASSESSMENT: \$14,460,000

This complaint was heard on 23 day of June, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- Rickard Realty Advisors – B. MacFarland

Appeared on behalf of the Respondent:

- City of Calgary – S. Turner and E. D’Altorio, Assessors

Property Description and Background:

The subject property is a car dealership with two buildings totalling 82,441sq. ft. These improvements are situated on a 497,094 sq. ft parcel of land located at 1313 – 36 Street N.E. The assessment is \$14,460,000 for 2010 based on a land rate of \$15.05 per sq. ft. and a value of \$6,985,031 for the improvements. The Complaint indicated that the primary issue before the CARB is the value attributed to the improvements.

Issues:

1. Is the subject property assessed in excess of its market value as of July 1, 2009?

Board’s Decision in Respect of Each Matter or Issue:

1. The subject assessment is not in excess of its market value as of July 1, 2009.

Overview of the Positions of the Parties

The Complainant explained that the Assessor has used a base rate of \$22.95 per sq. ft. for land in this area, however the subject parcel has access issues, utility right of ways, topographical problems and the shape is not conducive to maximum development. The Assessor has reduced the land rate to \$15.05 and the Complainant is not recommending a different rate. In this case the subject lands are located next to the LRT and if sold it would be very unlikely that the current use would continue. New dealerships are locating to the fringe areas of the City where land values are less expensive. For these reasons the improvements on the subject lands contribute very little to the overall value of the property. Therefore additional depreciation or economic obsolescence must be added to reduce the value of the subject improvements. The Respondent should have considered the highest and best use of this property and reduced the Marshall Swift outcome accordingly. The Complainant argued that the sale of 2777 Sunridge Boulevard N.E. proves the Complainant’s position. The 1998 improvements on the Sunridge property are only slightly newer than those of the subject which were constructed in 1995. When the land value is extracted from the sale price the improvements are only valued at \$46.35 per sq. ft. while the subject improvements are valued at \$84.73 per sq. ft. Based on the value of \$46.00 per sq. ft. for the improvements and leaving the land value unchanged, the subject assessment should be reduced to \$11,272,764. The Complainant also referred to 1260 Highfield Crescent S.E. as another example of where the sale will show that the improvements are

at a low value once accounting for the land at market value.

The Respondent indicated that the subject land value had been adjusted by +5% for corner lot influence and -25% because of the access problem. The Respondent indicated that the Sunridge sale is only one sale and what it may suggest as to the value of the improvements can not be accepted as being typical. Further it is inappropriate to compare the Sunridge property with the subject as the zoning is not the same and the formula the City used to develop the land value is different from the subject as well. With respect to the Highfield comparison, the owners indicate that this property required a \$1,000,000 expenditure on the building to suite the intended purposes therefore it is obvious that the owners see considerable future value in the improvements on this site. The Respondent pointed out that car dealerships in prime locations often trade in the market and continue to operate as car dealerships. The Complainant's theory that where the improvement on these lands are of a lesser value has not been proven and the CARB should confirm the assessment.

Reason for the Decision

The CARB found that the Complainant's primary challenge to the assessment is based on the premise that the improvements are over valued given the high value of the lands and the notion that these lands have a higher and better use. While the Board understood the argument being made the evidence in our opinion did not provide a conclusive or persuasive conclusion to that argument. The best evidence was the Complainant's analysis of the Sunridge sale whereby the value in the improvements was isolated from the land value to show that the purchasers were paying only \$46.35 per sq. ft. for the building. The problem the Board encountered however with this analysis was first that it is too limited in scope to be reliable as being typical of the market and second that the land had not been valued as suggested by the Complainant because of differences in the zoning between the two properties. With regard to the second comparable at 1260 Highfield Boulevard, the Complainant had not provided their analysis but suggested it would also support a value similar to the value of \$46.35 for the Sunridge improvements. The purchasers in the Highfield example however had incurred approximately \$1,000,000 in renovation cost which would likely have been taken into account in their purchase price. The CARB therefore was not convinced that this comparable could be relied upon as suggested by the Complainant. In the final analysis the CARB found it did not have sufficiently compelling evidence on which to determine additional depreciation to that determined through the application of the Marshall Swift calculations.

Decision Summary

Based on the foregoing the decision of the CARB is to confirm the assessment for the subject property at \$14,460,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF July 2010.


P. Petry
Presiding Officer

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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.*