

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

J.D. Sheridan (Linnell Taylor Assessment Strategies), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***M. A. Vercillo, PRESIDING OFFICER
S. Rourke, MEMBER
A. Blake, 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: 068231901

LOCATION ADDRESS: 140 11 AV SW

HEARING NUMBER: 56211

ASSESSMENT: \$5,330,000

This complaint was heard on 22nd day of June, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #12.

Appeared on behalf of the Complainant:

- *Mr. J.D. Sheridan (Linnell Taylor & Assessment Strategies)*

Appeared on behalf of the Respondent:

- *Mr. D. Grandbois*

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

Not Applicable

Property Description:

Named Palliser Centre the property has a multi-tenant retail strip mall with 12,124 gross square feet of building; situated on a land area of approximately 23,618 sq. ft. The building was constructed in 1973. The property has a current land use designation of "City Centre Mixed Use" (CC-X).

Issues:

- 1) The "highest and best use" of the property as land only, ignores the property's present condition. Therefore, assessing the property as if the land is vacant is not correct and results in a higher assessment.
- 2) Using the Income approach to value supports a lower assessment and respects the property's present condition an income producing property. The Direct Comparison Approach to value used by the Respondent results in a higher and inequitable assessment.

Complainant's Requested Value:

\$4,240,000

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

Issue 1)

The Complainant argues that the Respondent is assessing the property as vacant land and by doing so is not acknowledging the condition of the property as an income producing strip mall. Rather, the Respondent is taking an anticipatory approach to assessing value to the property by imposing the highest and best use for the property is vacant land. The Complainant further argues that the subject property functions as an income producing property and should be assessed accordingly. The Complainant cites the Municipal Government Act (MGA), Section 289(2), and the related Regulation, Matters Relating To Assessment And Taxation Regulation (MRAT), Section 2, in support of his position, where the Act and Regulation both speak to the physical condition of the property and the process under which it must be assessed.

The Respondent argues that all properties similar to the subject are subjected to an income producing valuation assessment but there are occasions, such as in the case of the subject, where the income approach to valuation fails to properly assess the fair market value of the property. As in the case of the subject, the land's value is higher than the income that could be realistically generated by the income producing building. The Respondent provided five sales comparables in his "Assessment Brief". The Respondent's sales comparisons show a sales price per sq. ft. range of \$205 to \$364 dollars per square foot, with a median of \$233 per sq. ft. The subject property is assessed at \$226 per sq. ft. (\$215 per sq. ft. plus a 5% "corner lot" influence adjustment). Parcel sizes for these sales comparables ranged from 7,082 sq. ft. to 26,076 sq. ft. Sale dates ranged from August, 2008 to April, 2009.

In considering this issue the Board finds that the Respondents sales comparables are reasonably and sufficiently similar to the subject property in terms of size and location of the land. Although the comparable sales are not time adjusted to a July 1, 2009 valuation date the Board accepts that the assessed value of \$226 per sq. ft. for the land is reasonable.

Issue 2)

The Complainant argues that the Income Approach to value the subject property is the most appropriate valuation method for the subject property because:

- it recognizes the subject's current physical condition and characteristics,
- reflects the market conditions of properties similar to the subject, and
- is fair and equitable in comparison to other properties similar to the subject.

The Complainant provides a summary of his Income Approach to value for the subject property in his "Disclosure of Information" package. Using rental rates of \$30.00 per sq. ft. and a capitalization rate of 8.25% he arrives at a valuation of \$4,240,000. The Complainant also supports his Income Approach to value with a Direct Sales Comparison Approach to value for vacant land. In his report, the Complainant provides sales comparisons that conclude land sales to be at \$180 per sq. ft. In applying this rate to the subject's land size he arrives at total valuation of \$4,250,000.

The Respondent indicated that the Income Approach to value in the case of the subject is insufficient to capture its fair market value. However if one were to attempt that exercise he would use a capitalization rate of 7.5%. The 7.5% capitalization rate is more appropriate given the subject attractive location. In rebutting the Complainant's land sales comparables, the Respondent argues that most of the sales are not within the "Beltline" (similar assessable district) as the subject and a few are non-arms length transactions and should be given little weight as comparables. The Respondent agreed that only one land sale offered by the Complainant was comparable – 739 10 Ave. SW. That property sold in April, 2009 and had a sales price per sq. ft. ratio of \$205 which supports the subject property's assessment per sq. ft.

In considering this issue the Board finds that the Income Approach to value in this case fails to adequately account for the value of the land. The Board is convinced that the Respondent must value a parcel of land and improvements to reflect its fair market value and cites MRAT, Section 6(1) in support of this valuation standard. The Board accepts the Respondents position that most of the sales comparables used by the Complainant in support of his Income approach were insufficient. The Board also accepts that the Respondent has considered the Income Approach but upon realizing it failed to capture the fair market value of the property, used the Direct Sales Comparison approach for land sales in a fair and equitable manner to other similar properties within the same assessable district as the subject.

Board's Decision:

The Board confirms the assessed value of **\$5,330,000**.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF July 2010.



Michael A. Vercillo

Presiding Officer

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.*