

**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:

Cushman & Wakefield Property Tax Services, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

L. Wood, PRESIDING OFFICER

R. Deschaine, MEMBER

P. Pask, MEMBER

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

ROLL NUMBER: 058185802

LOCATION ADDRESS: 233 10 Street NW

HEARING NUMBER: 57770

ASSESSMENT: \$482,500

This complaint was heard on 24 day of June, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11. This complaint was heard in conjunction with the one filed on **roll number 058185596** and cross referencing may be required in regards to the parties' evidence and arguments.

Appeared on behalf of the Complainant:

- Mr. Jan Goresht

Appeared on behalf of the Respondent:

- Mr. Phil Colgate

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

The Respondent raised a preliminary matter in regards to the disclosure of evidence pursuant to section 8(2)(a)(i) of *Matters Relating to Assessment Complaints Regulation* AR 310/2009 ("MRAC"). The Respondent argued that the Complainant failed to disclose a signed witness report in accordance with section 8(2)(a)(i) and therefore no verbal presentation from the Complainant should be allowed in accordance to s. 9(2) of MRAC. The Complainant argued that he is acting as the authorized agent on this matter, not as a witness, and therefore he was not required to disclose a signed witness report in advance of the hearing. The Board agreed, having satisfied itself that the agent was duly authorized to act on the matter, and directed that the hearing proceed accordingly.

The Board questioned the Complainant in regards to the matters that were checked on the complaint form, namely (3) an assessment, (4) an assessment class and (5) an assessment sub-class. It appeared that the only issue before the Board was the assessment.

Property Description:

The subject property is a two storey building located at 233 10 Street NW in Hillhurst. It is a 2,865 square foot building located on 5,297 square feet of land, built in 1908. It is a commercial building used primarily as retail. It is designated as a quality B building.

Issues:

1. The assessment is inequitable in comparison with similar properties.

Complainant's Requested Value: \$ 350,000

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

The Board notes that the Complainant made several statements on the appendix to the complaint form. The Complainant stated that "*the assessment is too high. The assessment is above market value. The assessment is incorrect as to the nature, the size, the use, the condition, the actual and potential income, the actual and typical expenses, the appropriate sales*

comparables, the correct Cap rate, and the inherent obsolescence of the property. The correct information is a quality rating of C, a reduced rental rate, and the correct capitalization rate of 8.5%".

The Board finds that the Complainant *failed to provide any evidence* on any of these statements. As such, the Board was left to address only the question of equity.

The assessment is inequitable in comparison with similar properties.

The Board finds the Complainant's chart of 20 retail/office assessment comparables located near the subject property of little value in supporting an equity analysis (Exhibit C1 page 3). There was no percentage breakdown of retail/office/storage space, six of the comparables had a different classification of the subject (A-, A+, A2), and one of the comparables was classified as Retail/Strip

The Complainant stated that the two best comparables are located at 104 10 Street NW and 132 10 Street NW. These buildings were constructed in 1912 and 1913, respectively. The comparable located at 104 10 Street is classed at B and is assessed at \$142.12 psf. The comparable located at 132 10 Street NW is classed as B- and it was assessed at \$113.19 psf. The Complainant requested that the median of these two assessment comparables which results in a rate of \$122.16 psf be applied to the subject property.

The Board finds that the Complainant's equity analysis was based solely on the fact that these are older buildings. The two comparables that he provided to the Board are single storey retail buildings whereas the subject property is a two storey building that contains both office and storage space in addition to retail space. These differences were not accounted for and as a result, the Board finds these two comparables of little assistance.

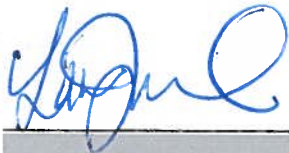
The Board also reviewed the Complainant's Sales and Assessment Comparables. It notes that the comparable located at 223 14 St NW has a similar type and class as the subject property, although newer, sold in June of 2009 for \$185.38 psf which also supports the assessment of the subject property.

The Board finds that the Complainant's evidence contradictory and insufficient to bring the assessment into question.

Board's Decision:

The decision of the Board is to confirm the 2010 assessment for the subject property at \$ 482,500.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF JULY, 2010.



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.*