

**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: 058185596**

**LOCATION ADDRESS: 227 10 Street NW**

**HEARING NUMBER: 57775**

**ASSESSMENT: \$3,860,000**

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 058185802** 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 three storey building located at 227 10 Street NW in Hillhurst. It is a 14,734 square foot building located on a .26 acre lot, built in 1969. It is a mixed use commercial building used primarily as retail on two floors and office space on the upper floor. It is designated as a quality A- building.

### **Issues:**

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

**Complainant's Requested Value:** \$ 3,200,000

### **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 B, 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, fourteen of the comparables had a different classification of the subject (B, B+, B-), and one of the comparables was classified as Retail/Strip

The Complainant stated that the best comparable was located at 223 10 Street NW which was assessed at \$222.50 psf. Located near the subject property, it has a similar type of Retail Mixed Use Upper/Up/Down and is classed at A-. He requested that the same rate be applied to the subject property. However, his next comparable located at 217 10 Street NW has a similar type, classification and location as the subject property. It was assessed at \$275.07 psf which supports the subject property's assessed rate of \$261.98 psf.

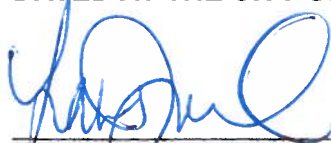
The Board also reviewed the Complainant's Sales and Assessment Comparables. It notes that one comparable located at 120 10 Street NW shares a similar type, class and location as the subject property. It sold in August of 2008 for \$262.12 psf which also supports the assessment of the subject property.

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 \$3,860,000.

DATED AT THE CITY OF CALGARY THIS 22<sup>nd</sup> DAY OF JULY, 2010.



L. Wood  
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.*