

**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, Section 460(4).

between:

Assessment Advisory Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Steven C. Kashuba, PRESIDING OFFICER
Ed Reuther, MEMBER
Ron Roy, 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: 101014405

LOCATION ADDRESS: 6008 Macleod Trail SW

HEARING NUMBER: 58364

ASSESSMENT: \$10,570,000

This complaint was heard on 8th day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *M. Byrne*

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

At the outset of the hearing the Respondent lodged an objection to the Complainant's evidentiary submission by saying that the Complainant was attempting to present one page of information not disclosed earlier. However, upon further review the objection by the Respondent was withdrawn when it was determined that the one extra page of information being submitted by the Complainant was, in fact, one photocopied page from the Respondent's submission.

Property Description:

The subject property, located at 6008 Macleod Trail SW, is within the Manchester Industrial subdivision with the effective year of construction of 1955. The development consists of 45,246 square feet of CRU and office space leased to fifteen companies. The assessment amount for 2010 is \$10,570,000.

Issues:

1. The market rent applied by the City is too high and results in an over-assessment of the subject property.

Complainant's Requested Value: \$8,420,000.

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

1. The market rent applied by the City to the subject property is too high.

It is the position of the Complainant (1-C, page 11) that two areas listed by the City as being *office* space are, in essence, mezzanine office space within the leased area of one of the tenants, and a storage area above the main retail tenant, Le Chateau. It is these two areas that are under dispute in that they do not rent \$13 or \$18 per square foot respectively as advanced by the City. The area above the Le Chateau was leased in January of 2007 at \$11.42 per square foot while the area above Treadz Auto was leased in August of 2007 for \$6 per square foot. According to the submission of the Complainant, these two areas do not fall under the standard definition of typical office space and do not lease for the same rates as typical office space on Macleod Trail.

Further, the rental rates as applied to Le Chateau and Treadz Auto of \$22 per square foot do not reflect the actual leases of \$14 and \$18 per square foot respectively. Finally, the area on the second level occupied by Roxx Hair has been assessed as CRU but should be assessed more correctly as office space at a rate of \$20 per square foot rather than \$22 per square foot.

As for the Respondent, it is their position that typical market rents have been applied (1-R, page 14-15) to CRUs and office space; that the rates of \$24, \$23, and \$22 per square foot for CRUs and \$20 per square foot for office space all mirror market standards for this area of the City. And, even though the building is fully leased, a vacancy rate of 9% has been applied thereby further supporting the position of the Respondent that the Complainant is being treated fairly and equitably. These market rents are applied by the City and a net operating income of \$872,235 is attained. By applying an uncontested capitalization rate of 8.25%, an assessment of \$10,570,000 is derived.

In addition, the Respondent supported their assessment through a presentation of capitalization rates, CRU vacancy rates summary, and operating costs summary (1-R, page 16) along with a business lease comparable report (1-R, page 18-20). Finally, the Respondent supports their assessment through a presentation of an Assessment Request for Information report for the subject property (1-R, pages 24 – 26) showing that the subject property is fully leased at rates per square foot ranging from \$14 to \$35 per square foot.

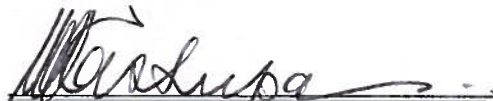
In assessing the respective positions of the two parties, the board finds that the Complainant failed to provide market comparables for their request to reduce the lease rate in the mezzanine portion of the subject from \$20 per square foot to \$6 per square foot. In addition, the Complainant demonstrated that the mezzanine space was finished in a superior manner as opposed to typical mezzanine space which, unlike their purported comparable, would have been used mainly for storage. As for the Complainant's request for a reduction in the lease rate for the CRU space, the board finds that the Complainant failed to provide any market comparables and relied solely upon the subject's rent roll. Insofar as the Complainant's request for a re-designation of upper floor from a CRU to office space with the subsequent reduction in the net rental rate, the board finds that the Complainant failed to provide a rationale as to why space that is actually used as retail space should be re-designated as office space.

The board places considerable weight upon the Respondent's analysis of market net rental rates as applied to the subject. In looking at the most recent rental activity of the subject property, the board notes that it is fully leased and accepts that under mass appraisal guidelines, assessments are considered in the light of highest and best use. The board is satisfied that this principle has been applied in this case.

Board's Decision:

It is the decision of the board to confirm the assessment of the subject property for 2010 at \$10,570,000.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF JULY 2010.



Steven C. Kashuba

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.*