

**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: 124188616

LOCATION ADDRESS: 9627 Macleod Trail SW

HEARING NUMBER: 58346

ASSESSMENT: \$6,790,000

This complaint was heard on the 9th 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:

- *D. Satoor*

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

No procedural or jurisdictional matters presented.

Property Description:

The subject property, located in the Haysboro Community of the City, is a commercial development adjacent to the arterial road of Macleod Trail. The development consists of three buildings for a total of 28,397 square feet in area. Of this total area, 9,012 is designated as office space, and the balance consists of two retail spaces of 15,858 and 3,526 square feet each. The current assessment is \$6,790,000.

Issues:

1. The City's rental rate for the two retail outlets is not reflective of market rental rates.
2. The vacancy rate applied by the City to the three properties is too low.
3. The capitalization rate of 8.00% as applied by the City is too low.

Complainant's Requested Value: \$5,380,000.

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

1. The City's rental rate for the two retail outlets is not reflective of market rental rates.

In support of their request for an application of market rents to the two retail outlets, the Complainant submitted, for comparative purposes, a master rent roll as at December 1, 2009 for Indigo Books & Music Inc which reflected a rate of \$20.75 (1-C, page 15) while the City applied a rate of \$26 per square foot for the subject restaurant property (Shanks). In addition, they presented five Roll Numbers (1-C, pages 20 – 29) which presented market net rent rates ranging from \$10 per square foot to \$24 per square foot. The board places little weight upon this evidence in that the comparables are derived from less desirable segments of the City.

In support of an application of a lease rate of \$26 per square foot for large restaurants, the Respondent presented five lease rates for like restaurants in the same quadrant of the City (1-R, page 30) all of which command a lease rate of \$26 per square foot thereby fully supporting the lease rate as applied to the subject property.

2. The vacancy rate of 4% as applied by the City in their pro forma (1-C, page 13) is too low.

To support their request for a 6% vacancy rate, the Complainant presented a CB Richard Ellis report for the fourth quarter of 2009 (1-C, page 16 and page 17) wherein a Percentage Vacant of 5.8% is reported. However, no supportive data for like properties was presented.

In contrast, the Respondent presented a study of vacancy rates for the SW quadrant of the City (1-R, page 14) which support the application of a 4% vacancy rate to the subject property.

3. The capitalization rate of 8.00% as applied by the City is too low.

In support of their request for the application of an 8.25% capitalization rate, the Complainant relied upon the CB Richard Ellis Market View Report (1-C, pages 16 – 19) and five Income Approach to Valuation comparables from various sectors of the City. The board places little weight upon these comparables in that they do not reflect the characteristics of the subject property and are located in less desirable sectors of the City.

In contrast, the Respondent presented five examples of capitalization rates as applied to similar properties in the SW sector of the City which, on average, have a capitalization rate of 7.46% whereas a rate of 8% was applied to the subject property (1-R, page 16).

As a consequence, the board places considerable weight upon the Respondent's submission as regards the application of a capitalization rate of 8% to the subject property.

In reaching its decision, the board finds that the Complainant failed to support their request for a reduction in the rental rate, the increase in the application of a vacancy rate, or an increase in the capitalization rate.

Board's Decision:

It is the decision of the board to confirm the assessment of the subject property for 2010 at \$6,790,000.

DATED AT THE CITY OF CALGARY THIS 21st 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.*