

**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-26.1, Section 460(4).

between:

Imperial Oil Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER

A. Blake, MEMBER

P. Charuk, 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: 111176806 & 124000100

LOCATION ADDRESS: 6815 & 9835 – Macleod Trail S.W. respectively

HEARING NUMBER: 56613 & 56615

ASSESSMENT: \$ 8,130,000 (Roll # 111176806) & \$4,850,000 (Roll # 124000100)

This complaint was heard on 21 day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- Mr. J. McMillan

Appeared on behalf of the Respondent:

- Mr. E. D'Altorio

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

Not Applicable

Property Description:

The properties under complaint are both retail gas bar/convenience store/car wash facilities that are both located with frontage on Macleod Trail south in the City of Calgary.

Issues:

1. The matter under complaint relates to the issue of equity in that the subject properties have been assessed in a different manner, specifically the Cost Approach to Value, than adjacent properties located along the Macleod Trail commercial strip and this has led to assessed values that are inequitable with properties assessed in a different manner, specifically through application of the Income Approach to Value. Application of the Cost Approach by the Assessor has resulted in a land value estimate of \$89.25 per square foot of site area for both properties. The value of the improvements is not contested in either case.

Complainant's Requested Value: \$3,000,000 (Roll # 111176806) &
\$1,800,000 (Roll #124000100)

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

1. The Complainant provided evidence that other commercial properties with similar locations along Macleod Trail are assessed using the Income Approach to Value whereas the subject properties have been assessed through application of the Cost Approach to Value which incorporates a land value of \$89.25 per square foot of site area. The evidence put forth by the Complainant indicated that the total assessed values of improved commercial properties with similar locations along Macleod Trail south, assessed through application of the Income Approach, equated to an average of \$34 per square foot of site area, hence the inequity.

The Assessor indicated that the subject properties, together with some other commercial property types located along Macleod Trail south, have been classified as being 'owner occupied' and that no income information was available upon which to base an Income Approach; therefore the Cost Approach had been applied to derive an assessed value for this class of properties. In application of the Cost Approach the Assessor indicated that a bare land value of \$89/Sq. Ft. of site area had been applied and that the rate of \$89/Sq. Ft. was applied to all commercial 'owner occupied' properties along Macleod Trail.

In that the Assessor has determined the bare land value for these properties then it is only reasonable, in the judgement of the Composite Assessment Review Board (CARB), that the minimum value of any commercial property located along Macleod Trail south would be \$89/Sq. Ft. of site area; however, this is clearly not the case as shown by the evidence of the Complainant. In utilizing two different approaches to value the Assessor has disrupted equity. If the bare land value is \$89/Sq. Ft. then, as stated, that must represent the minimum value of any commercial property located within that geographic area where the Assessor has applied this land value. If the Income Approach is applied

to derive a value estimate for any particular property located within that same geographic area then it should be the higher of the either the land value estimate or the Income Value derived value estimate that should be the assessed value. The foregoing is a basic Highest and Best Use test which the Assessor has not applied. Based upon the evidence of the Complainant it seems that the Assessor is of the belief that a vacant, unimproved land parcel is of greater value than a similar sized land parcel that is improved with a successful income producing commercial enterprise of one type or another. This cannot, logically, be the case and the CARB agrees with the Complainant that the Assessor has disrupted equity amongst commercial properties located along Macleod Trail south.

Board's Decision:

The assessment of the subject properties are reduced as follows:

Roll # 111176806 \$3,000,000.

Roll # 124000100 \$1,800,000.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF JULY 2010.



C. J. GRIFFIN
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.*