

**CALGARY
COMPOSITE 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:

Linnell Taylor Assessment Strategies, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Steven C Kashuba, PRESIDING OFFICER

Alfredo Wong, MEMBER

Ike Zacharopoulos, 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: 079017703

LOCATION ADDRESS: 2100 – 4 Street SW

HEARING NUMBER: 56225

ASSESSMENT: \$6,580,000

This complaint was heard on 30th day of August, 2010 by the Composite Assessment Review Board at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *David Sheridan*

Appeared on behalf of the Respondent:

- *Andy Czechowskyj*

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

In advance of proceeding to the merits of the complaint, both parties requested that the board allow them to recess for the purpose of reviewing the component of the Pro-Forma as presented on page 9 of 1-C with the view of coming back to the board with a recommendation.

The board considered the request of both parties for a recess and granted their request. Both parties did come back with a recommendation, the Complainant with a request for a reduction from \$6,580,000 to \$5,810,000 while the Respondent requested a reduction in the assessed value from \$6,580,000 to \$6,000,000.

The positions of the two parties follow along with the decision of the board.

Property Description:

The subject property, constructed in 1970, is located at 2100 – 4 Street SW, and is considered to be a strip retail property in the Commercial Corridor 1 (Beltline Commercial). The subject is assessed *as-if-vacant*, predicated on a \$215 per square foot plus a corner location premium of 5% producing a rounded unit of \$225 per square foot. The current assessment is \$6,580,000.

Issues:

1. Is the subject property correctly assessed when using the income approach to value?

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

Position of Complainant

It is the position of the Complainant that the subject property should be assessed using the income approach to value as opposed to the Respondent's use of the value of vacant land per square foot to determine the assessment. In this regard the Complainant submitted that the property is an occupied multi-tenant retail site, encumbered with nine leases extending out to various dates up to 2014. It is therefore an operating and functioning income producing property and should be assessed on this basis.

As for an attempt at any redevelopment, it is the opinion of the Complainant that such an endeavour would be hampered by legal restrictions and the place being occupied by the market in the "build cycle". At the present time the economy is not within this cycle. Therefore, in failing this test, an assessment based on the land value is moot because the subject has and continues to function and operate as an income producing property and not the way it is assessed, which is artificial, anticipatory and based upon an unproven theory.

In support of the use of a market income approach to value, the Complainant submitted the rent roll for the subject property which reflects, for 2008 and 2009, a rent rate range of \$17 per square foot to \$30 per square foot, or a mean of \$23.50 per square foot.

Notwithstanding the Complainant's earlier request for an application of \$23.50 per square foot, both parties agreed, following a recess, to apply a rate of \$32 per square foot, less a vacancy rate allowance of 8.5%, and a capitalization rate of 7.5%. These variables, when applied within the Pro-Forma, would result in a reduction to the assessment from \$6,580,000 to \$5,810,000.

Position of Respondent

It is the position of the Respondent that the assessment of the subject property is supported by land sales in the Beltline Commercial zone of the City where the mean sale per square foot is \$262, the median \$221, and the weighted mean of \$281 while the subject property is assessed at \$215 per square foot.

To further support the assessment, the Respondent presented a table (1-R, page 83) showing all of the commercial assessment rates per square foot of land in the 4th Street area. It shows whether a property physically consists of land only or land and improvement. The higher of the two values, income approach versus the sales comparison approach, was applied for assessment purposes. Thus, given that the City is legislated to value property at 100% of market value, the vacant land rate was applied to these cases. The subject property falls under this category and is shown in the table.

However, during the recess to allow the parties to discuss the variables utilized in the Pro-Forma (1-C, page 9), the Respondent conceded that the income approach to value is appropriate in this case. The Respondent's position was presented after having regard for the complexity of determining land value for a property that is fully leased and the possibility of being confronted with environmental issues in the event that the site were to be valued as marketable vacant land. However, in deference to the position of the Complainant who requested a value of \$5,810,000, the Respondent requested a lease rate value as evidenced in the Complainant's own submission (1-C, page 7) which would support a lease rate sufficiently high to support a value of \$6,000,000.

Board's Decision in Respect of Each Issue:

The board accepts the Complainant's argument (and the Respondent's support for the basic fundamentals of this argument which was reached following the board-sanctioned recess) which presents the position that the best way to determine the subject's assessment value is through an income approach. In this regard, both parties agreed to apply a rental rate of \$32 per square foot, a vacancy allowance rate of 8.5%, and a capitalization rate of 7.5%. By applying these values, a reduced assessment value is determined.

Board's Decision:

It is the decision of the board to reduce the assessment of the subject property for 2010 from \$6,580,000 to \$5,810,000.

Reasons

The board accepts the argument advanced by the Complainant (and agreed to by the Respondent during a recess) that the best way to determine the market value and therefore assessment value of the subject property is by utilizing the income approach.

DATED AT THE CITY OF CALGARY THIS 8 DAY OF September 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.