

**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-26.1, Section 460(4).

between:

Colliers Int'l Realty Advisors, *COMPLAINANT*

and

The City Of Calgary, RESPONDENT

before:

**J. Noonan, *PRESIDING OFFICER*
A. Wong, *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:	066186602
LOCATION ADDRESS:	2100 10 Ave SW
HEARING NUMBER:	57414
ASSESSMENT:	\$6,470,000.

This complaint was heard on the 20th day of August, 2010 at the office of the Assessment Review Board located at the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- M Uhryn, Consultant, Colliers Int'l Realty Advisors

Appeared on behalf of the Respondent:

- D. Lidgren, Assessor, *The City of Calgary*

Property Description:

The subject is located at 2210 10 Ave SW, Calgary. It is a 59,957 sq.ft. commercial parcel which has been assessed on land value only, at a base rate of \$120 per sq.ft. then reduced by 15% for railway influence, then 5% bonused for corner lot. The neighbouring property at 2206 Ave SW is similarly assessed, occupied by the same owner, and also under complaint: the two hearings were conducted simultaneously. The assessed value is \$6,470,000.

Procedural Matters:

Due to the absence of a third panel member, the complaint was heard by two members, a quorum, as allowed by the *Municipal Government Act* s 458 (2).

Issues:

1. **Has the subject been equitably assessed in comparison to nearby properties with similar constraints?**
2. **Should the non-completion of a purchase agreement dated 2006 be given weight as evidence of diminished market value?**

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

The Composite Assessment Review Board (CARB) found the equity comparables advanced by the complainant, although suffering similar negative influences, were inferior to the subject's zoning restrictions. The comparables were permitted a floor area ratio of 2 and height restrictions of 16 meters; the subject was allowed a floor area ratio of 3 and a height of 27 meters. The CARB concurred with the Respondent's argument that the comparables' lesser development potential was recognized in a lower land base rate, and to apply that lower rate to the subject would negate the differences between these properties. As well, the subject enjoyed better access from Crowchild Trail than did the comparables.

A copy of an August 2006 purchase and sale agreement for the subject and the neighbouring parcel (2100 and 2106 10 Ave) was introduced. The purchase price was to be \$9.3 million but was contingent on re-zoning approval to permit a high-density residential development. (The

sum of the two assessments under appeal is \$9,570,000.) The agreement was never consummated: the Complainant contends that the re-zoning application was rejected, and the City's records indicate the application was cancelled by decision of the Applicant. The Complainant submits this failed transaction as evidence of value during more buoyant economic times **if** the site were permitted greater development potential. The Respondent observes that there is a lack of evidence showing exposure of the subject(s) to the real estate market, and in any event, simply an agreement that never resulted in a transaction.

The panel sought information from the parties regarding prior decisions of assessment complaint/appeal tribunals and was informed that in 2008, for value as of July 1, 2007, the ARB reduced the assessment to \$9.3 million. On appeal to the MGB, the assessment was increased to somewhat in excess of \$13 million in consideration of the sale of an inferior property close by and a finding that the \$9.3 million agreed price needed time adjustment by a factor of 3% per month. In 2009, the complaints were withdrawn.

The CARB finds that further consideration of the August 2006 agreement would shed little light on the value of the subject(s) today and in the future. Further debate on the circumstances surrounding this proposed transaction would probably lead to points scored for both sides of the argument, and confound the process of determining fair and equitable assessment.

Board Decisions on the Issues:

The Board confirms the assessment of \$6,470,000.

DATED AT THE CITY OF CALGARY THIS 15 DAY OF September 2010



J. Noonan
Presiding Officer

JN/sd

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.*