

**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, Section 460(4).

**between:**

***LINNELL TAYLOR & ASSOCIATES, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***T. Golden, PRESIDING OFFICER  
J. O'Hearn, 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: 051065308**

**LOCATION ADDRESS: 2315 68 Street NE**

**HEARING NUMBER: 56173**

**ASSESSMENT: \$2,660,000**

This complaint was heard on 1<sup>st</sup> day of October, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *D. Sheridan*

Appeared on behalf of the Respondent:

- *P. Sembrat*

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

There were no procedural or jurisdictional matters raised before the Board.

**Property Description:**

The subject is a 1989 multi-tenant retail property consisting of two structures: a 3,939SF free-standing gas bar/car wash/convenience store and a small 2,230SF retail premises utilised by two tenants. The City has assessed the subject property utilising the Cost Approach to Value.

**Issues:**

1. The characteristics & physical condition of the subject property support the use of the income approach utilising typical market coefficients for rent, vacancy, and a capitalization rate which is utilised for all other competing and typical retail properties.
2. The assessment of the subject property is in excess of its market value for assessment purposes.
3. The assessment of the subject property is not fair and equitable considering the assessed land value and methodology utilised on comparable properties.

**Complainant's Requested Value:**

The assessment requested on the Complainant Form was \$1,600,000. This was revised at the hearing to \$1,800,000.

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

1. **The characteristics & physical condition of the subject property support the use of the income approach utilising typical market coefficients for rent, vacancy, non-recoverables and a capitalization rate which is utilised for all competing and other typical retail properties.**

The Complainant submitted that the income approach is the preferred and correct method of valuation for the subject property based on the income-producing feature of the property. In support of the valuation parameters, he submitted the subject rent roll, dated as of July 1, 2008, detailing the

subject CRU rental rates at \$16/SF and \$18.50/SF (blended rate is \$17.29/SF); and the gas bar/car wash/C-store at \$24.77/SF. The overall weighted mean of the subject rent is \$22.06/SF. In support of the CRU market rental rates, the Complainant provided 11 leasing comparables of similar CRU spaces with rates ranging between \$13/SF to \$19/SF with 2008/2009 start dates. For 2009 start dates, the median rate is \$16.50/SF. For the gas bar/C-store/car wash component, the Complainant provided six gas land lease comparables to show the rental rate of \$24.77 reported in the subject rent roll is reasonable. For vacancy, he provided two third-party reports suggesting an allowance of 3.7% and 3.97% for Northeast strip mall/small retail centres is reasonable. However, in light of the subject's actual zero vacancy, 2% allowance is deemed appropriate. As for market capitalization rate, five retail sales comparables were tabulated for the Board, with a median of 8.70%. The complainant suggested the sale located at 3709 – 26 Avenue is most similar to the subject in size and quadrant, with a reported cap rate of 7.6% or a contract NOI of \$20.40/SF, close to the subject's \$22.06/SF. Therefore, 7.5% cap rate requested for the subject would maintain this correlation. Finally, the requested assessment based on the Income Approach is \$1,770,000. (The Complainant rounded the request to \$1,800,000.)

The Respondent provided photographs of the Complainant's comparables showing the comparables are strictly retail strip malls without a gas bar/c-store and car wash component and are therefore, dissimilar to the subject. Further, the Respondent provided a Land Transfer and Affidavit of Transferee to show that the sale located at 3709 – 26 Avenue – which the Complainant felt was the most comparable sale – was a non-arms length sale and should not be included in the Complainant's Capitalization Rate analysis.

The Board is convinced that the income approach to valuation is appropriate in this instance. The Complainant has shown that the subject property's rent supports the requested valuation parameters – those coefficients/parameters were further supported by market evidence. Whereas, there were no market evidence presented by the City.

**2. The assessment of the subject property is in excess of its market value for assessment purposes.**

For the Direct Comparison Approach, the Complainant submitted three-2009, one-2010 retail sales transactions ranging from \$240/SF to \$383/SF. He noted that the characteristics of these properties do not closely resemble those of the subject, however, these sales do support his contention that the subject has been over-assessed. Sale number 1, 3 & 4, with similar NRA to the subject, has a median unit sale price of \$323/SF. The subject's is currently assessed at \$427/SF. In applying the sales median to the subject's NRA of 6,169 SF, the market value would be \$1,990,000, rounded.

The Board accepts the data as presented by the Complainant as further support that the subject's current assessment may be incorrect. The Board finds the Complainant's sales comparables establish a range that the subject fails to be assessed within but should. The Respondent did not provide any market sales evidence to indicate otherwise.

**3. The assessment of the subject property is not fair and equitable considering the assessed land value and methodology utilised on comparable properties.**

The Complainant provided 5 CN-2 Suburban Commercial Land Sales with a weighted mean of \$1,447,539 per acre. The subject's current land assessment is \$2,047,880 for 1.07 acres or \$1,922,784 per Acre. The Complainant suggested that to perform an accurate analysis of

commercial land sales, a minimum number of similar sales must exist. Despite the lack of data available to both parties, these land sales are somewhat acceptable for the purposes of assessment modelling. In considering the differences in location between the subject and the sales comparables, an upper end of the range of \$1,500,000 per Acre is concluded for the subject property. Therefore, in applying that per Acre upper range and the improvement value indicated by the City (\$613,375), the subject's assessment should be no more than \$2,210,000. However, the Cost Approach is deemed an inappropriate method of valuation for the subject property and the Cost Approach should be used as a point of reference only. The Complainant further explained that this Cost Approach is the reason the subject experienced an unfounded year-over-year increase of 32% in a recessionary period. The Complainant directed the Boards' attention to the requirement of MRAT that a property should be assessed according to its current physical characteristics and not its future potential. The Complainant further suggested that virtually all other retail properties are valued using the Income Approach, and in order to maintain fairness and equity, the subject property should likewise be valued using this same valuation method.

The Respondent provided several photographs, an aerial map and an Ortho map of the subject property. At the hearing, the Respondent directed the Board and the Complainant to the subject's Ortho map stating that the subject property has the potential to be subdivided and therefore, the parcel can be sold for development. He also included a RealNet report showing that the land sale located at 3131A 27<sup>th</sup> Street NE is a non-arms length sale between affiliated organizations and therefore should not be included in the Complainant's Suburban Commercial Land Sales analysis. In support of the City's chosen Cost Approach, the Respondent provided 14 *Costed Equity Gas Bars* and seven *Gas Bars/C-store/car wash, Stand-Alone Cost Based Assessment* Comparables, some of the comparables have accompanying photographs. The Respondent also included 7 Land Sales separated into two different charts. The first Chart has land parcel size ranging from 0.30 to 0.46 acre and a TASP/SF from \$60.28/SF to \$80.86/SF. The second chart included sales of parcel size ranging from 1.70 to 2.18 Acres and TASP/SF ranging from \$24.92/SF to \$36.55/SF or \$1,085,708/Acre to \$1,592,178 per Acre. The subject land is currently assessed at \$44.16/SF or \$1,922,784/Acre. There is a notation on the subject Costed Approach Summary that the improvement estimated at \$613,375 was valued by Marshall & Swift Estimator but details were not provided.

#### COMPLAINANT REBUTTAL SUBMISSION:

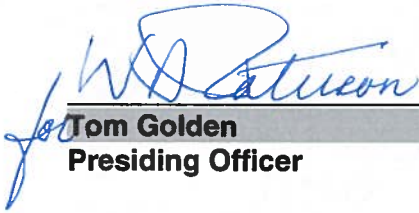
The Board reviewed and gave consideration to any and all pertinent and relevant information contained within the Complainant's Rebuttal Submission. (See C-3.)

As stated above, the Board deems the Cost Approach is not suitable for this subject property. The Board agrees with the Complainant that the subject is an income producing property with income and rental rates that can be substantiated in the market. In maintaining, fairness and equity with other retail properties, the Board finds the Income Approach appropriate. The Respondent's costed equity comparables lack sufficient details for the Board to judge the comparability of these properties to the subject. Both the Respondent's and the Complainant's land sales – revised within the Complainant's Rebuttal Submission - suggest a median of approximately \$30/SF; Clearly the subject land assessment at \$44/Sf is overstated.

#### **Board's Decision:**

The decision of the Board is to revise the 2010 assessment for the subject property from \$2,660,000 to \$1,800,000 (rounded.)

DATED AT THE CITY OF CALGARY THIS 6<sup>th</sup> DAY OF December 2010.

  
Tom Golden  
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.*