

**CALGARY
COMPOSITE ASSESSMENT REVIEW BOARD (CARB)
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:

Res-Comm Property Consultants, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

P. Irwin, PRESIDING OFFICER

M. Grace, MEMBER

R. Deschaine, MEMBER

A hearing was convened on October 8th, 2010 in Boardroom 9 at the office of the Calgary Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta in respect of the Property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	067127803
LOCATION ADDRESS:	1216 8 ST SW
HEARING NUMBER:	58638
ASSESSMENT:	\$4,390,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a retail strip mall located in the BL4 section of the Beltline Community, on the southwest corner of 12th Avenue and 8th Street SW. It has 8,245 square feet (sf) of rentable space and is situated on 2 lots with an area of 19,487 sf. The subject has a Land Use Designation (LUD) of Centre City Commercial Corridor (CC-COR). The market value was determined by using a land-only sales comparison approach to value. The 2010 Assessment was derived by using a Land Rate of \$215 per sf and then adding a 5% adjustment for the corner lot influence.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

There were no objections to the composition of the Board, nor were there any jurisdictional matters.

A preliminary matter was raised with respect to disclosure of evidence. The Respondent regarded an appraisal (prepared December 21, 2009) included in the Complainant's package not to be rebuttal in the proper sense. After hearing presentations from the Complainant and the Respondent, the Board decided to not allow the appraisal to be presented, as it could have accompanied the original disclosure and was not a rebuttal to the Respondent's evidence.

PART C: MATTERS/ ISSUES

Is the subject property assessed too high?

The Complainant stated that the assessment on the subject property was ~\$648 per sf on the net rentable improvement. She noted that there had only been two sales of strip malls during the relevant timeframe at ~\$110 and ~\$237 per sf, and neither was in the Beltline. A summary of 2008 sales that did occur in the Beltline showed the highest sale value at ~\$258 per sf. The Complainant also discussed the income approach and provided a rental schedule, noting that a cap rate of 5% would be required in order to generate an assessment of \$4,390,000 for the subject, whereas it should be 7%, and even a cap rate of 6% would generate a market value of \$3,590,900. She found it disturbing that the City looks at the higher of the two approaches (direct sales vs. income) in determining the fair market value.

The Complainant requested an assessment reduction to \$3,600,000.

The Respondent presented a table listing about 90 equity comparables, all in the BL4 section of the Beltline, all with a similar LUD (either CC-COR or CC-X), and all with a Base Land Rate of \$215/ sf. The Respondent also presented five commercial land sales in the Beltline area, all commercially zoned and all timely sales. These sale prices were adjusted for the lack of corner lot influence and had a mean value of \$262 per sf, a median value of \$221 per sf, and a weighted mean of \$281, all of which, the Respondent suggested, supported the 2010 assessed value of \$215 per sf. He stated that a post-facto sale (September 25, 2009) with a price of \$211 per sf also justified the assessed land rate.

With respect to the Complainant's sales comparables, the Respondent pointed out that they all had some limitations in usefulness, for various reasons including: (i) not in same area; (ii) inferior LUD; (iii) negative influences such as adjacent to train track and environmental concern; (iv) purchase by City for extension of West LRT; (v) purchase for Board of Education purposes; and (vi) residential home on multi-residential land.

The Respondent noted that an appeal on the 2009 assessment on the subject had been confirmed by the Municipal Government Board and also referred the Board to sixteen decisions from 2010 assessments that confirmed the \$215 rate.

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

After thoroughly reviewing all of the evidence presented, the Board finds that the Respondent's evidence, including several sales comparables supporting the \$215 base rate and an abundance of equity comparables, is more compelling. By contrast, the Complainant's sales comparables are

either not in the same area or not arm's length. With respect to sales approach versus income approach, the City can choose the higher value. The Board therefore finds that the 2010 assessment is correct, fair and equitable.

PART D: FINAL DECISION(S)

The Board confirms the 2010 assessment of the subject property at \$4,390,000.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF OCTOBER 2010.



P. Irwin
Presiding Officer

APPENDIX "A" : ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

<i>Crystal Nicolson</i>	<i>Res-comm Property Consultants, representing 420677 Alberta Inc..</i>
<i>Daniel Lidgren</i>	<i>Assessor, City of Calgary</i>

APPENDIX "B" : DOCUMENTS RECEIVED BY THE ASSESSMENT REVIEW BOARD

Document C – 1	Complainant's Brief & Rebuttal (combined): the brief was considered; the rebuttal was excluded from consideration.
Document R – 1	Respondent's Brief (considered)

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.*