

**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, Section 460(4).

**between:**

***PATMIR HOLDINGS TWO O/A DAIRY QUEEN, COMPLAINANT***

**and**

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

**before:**

***L. Lundgren, PRESIDING OFFICER  
J. Rankin, MEMBER  
S. Rourke, 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: 200299998**

**LOCATION ADDRESS: 8925 BARLOW TR NE**

**HEARING NUMBER: 56490**

**ASSESSMENT: \$352,000**

This complaint was heard on 8<sup>th</sup>, day of November, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *S. Huynh, representing the owner*

Appeared on behalf of the Respondent:

- *K. Buckry, assessor for the City of Calgary*

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

There were no procedural or jurisdictional matters.

**Property Description:**

The subject property is a Dairy Queen/Orange Julius located in the food court on the second floor of the Calgary Airport Terminal building.

**Issue**

1. What is the correct rental rate to be applied to the subject property?

**Complainant's Requested Value:** Revised request \$160,731

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

1. What is the correct rental rate to be applied to the subject property?

The Complainant argued that the property assessment is too high owing to the fact that neither the building nor the land is owned by the Complainant. This space is leased from the Calgary Airport Authority based on a percentage of concession revenue which amounts to approximately \$43.00 per square foot (psf). The subject is assessed on the income approach using \$95.00psf.

The Complainant explained that the concession is located in a poor location, off to the left of the escalator and away from the majority of the food court tenants. The subject Dairy Queen/Orange Julius is in a row with two other concessions, Host- Sbarro and Taco Time. The Complainant stated that the subject is in a disadvantaged location because it is outside of the security area and customers cannot take the liquids through security.

The Complainant contends that the subject property should be valued on the actual rent and not on the typical market rent. Based on the actual rent of \$43.00psf, the Complainant requested a revised assessment of \$160,731.

The Respondent confirmed that the subject is assessed using \$95.00psf which is a "soft location" rate. The subject Dairy Queen/Orange Julius, Host – Sbarro and Taco Time are each assessed using the same rate of \$95.00psf. The six tenants located in the main area of the food court are assessed using \$105.00psf. The Respondent explained that all of the tenants could be seen from the top of the escalator, but the three tenants on the left are assessed using a lower rate to recognize the soft location. Further, the rental rates are considerably lower in comparison to their counterparts in Sunridge Mall. For 2010, similar tenants in Sunridge Mall have been assessed using \$130.00psf and a lower capitalization rate of 6.75% which results in higher assessed values.

The Respondent submitted that the *MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION Alberta Regulation 220/2004* states that an assessment of property based on market value must reflect typical market conditions for properties similar to that property.

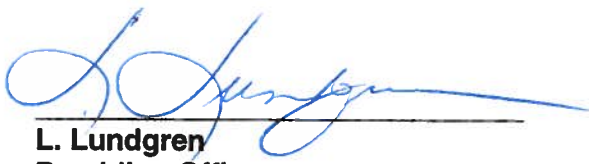
The Respondent requested the Board to confirm the assessment at \$352,000.

The Board finds that the Complainant's use of an actual rental rate to calculate the assessed value is not in accordance with the *Alberta Regulation 220/2004*. Further, the Complainant did not provide any evidence of typical rental rates for this type of property. The Board finds that the subject is equitably assessed with concessions in a similar location.

**Board's Decision:**

The complaint is denied and the property assessment is confirmed at \$352,000.

DATED AT THE CITY OF CALGARY THIS 30<sup>th</sup> DAY OF NOVEMBER 2010.

  
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L. Lundgren  
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.*