

**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, Revised Statutes of Alberta 2000 (the Act).

between:

C & H Properties Inc. (as represented by AEC International Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER

P. Charuk, MEMBER

P. Pask, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	076011600
LOCATION ADDRESS:	3301 – 17 Avenue SE, Calgary, AB
HEARING NUMBER:	65355
ASSESSMENT:	\$2,520,000

This complaint was heard on the 11th day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Brock Ryan and Jamie Wingrowich, AEC International Inc.*

Appeared on behalf of the Respondent:

- *Cliff Yee and Shelly Turner, City of Calgary Assessment*

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

Neither party expressed any objections to the composition of the CARB panel.

There were no procedural or jurisdictional matters to be decided.

Property Description:

The property that is the subject of this complaint is a commercial property in the Forest Lawn (Southview) district of southeast Calgary. It comprises a 20,910 square foot former Canada Safeway supermarket building on a 63,079 square foot commercial land parcel fronting onto the south side of 17th Avenue SE. The building was constructed in 1958. The current owner purchased the property with the intent of adapting the existing vacant building for use as a retail pharmacy to be operated as a Rexall Drugs store.

The 2012 assessment is \$2,520,000 which indicates a unit value of \$39.95 per square foot of land area. The assessment is a valuation of the land only with no regard to the existing building. It is noted that the 2012 Property Assessment Notice was mailed to Canada Safeway Limited. The current owner, C & H Properties Inc. took title to the property on December 30, 2011.

Issues:

In Section 4 (Complaint Information) on the Assessment Review Board Complaint form filed February 21, 2012, boxes 3 (assessment amount), 4 (assessment class), 6 (type of property) and 7 (type of improvement) were checked. An attachment set out eight reasons for the complaint.

In the Complainant's evidence disclosure, received April 14, 2012, the Complainant provided data on sales and assessments of three comparables, one of which was the subject property.

As not all of the reasons in the complaint form and evidence disclosure were addressed and pursued by the Complainant at the hearing, the Board focussed its attention on those reasons that were stated to be issues at the hearing. The issue to be decided by the CARB was: *Should this property be assessed as land only or as an improved property?*

Complainant's Requested Value: \$1,860,000

Position of the Complainant:

The Complainant presented data on three 2011 sales of commercial properties. One of the properties was the subject, one was a strip retail centre adjacent to the subject (1819 – 33 Street SE) and one was a strip retail centre located about one half block south of the subject at 3411 – 17 Avenue SE. The subject and the adjoining strip centre both transferred on December 30, 2011, six months after the effective valuation date of July 1, 2011. The other strip centre transferred on April 19, 2011, about 2 ½ months prior to the valuation date. The subject had the largest land parcel (63,079 square feet). The other two properties had land areas of 27,772 and 13,866 square feet. The subject was improved with a large (20,910 square feet) single occupancy supermarket building while the others were both multi-tenant shopping centres. The subject and one of the strip centres had direct exposure to 17th Avenue SE, the major artery through Forest Lawn. The strip centre adjacent to the subject did not have 17th Avenue exposure. The subject property transferred in December 2011 at a price of \$1,861,650 which represents \$89.03 per square foot of building area. The adjoining strip centre also transferred in December 2011 at a price of \$838,350, representing \$88.57 per square foot of building area. The other strip centre sold in April 2011 at a price of \$1,600,000, representing \$94.19 per square foot of building area (this building has a basement which accommodates a bowling alley).

Notwithstanding that the subject and one of the comparable properties sold six months past the valuation date, both sales occurred during the assessment year. Market survey reports from major commercial real estate brokers (Avison Young and Colliers) showed that prices were relatively stable during the second half of 2011. If anything, prices increased slightly, indicating that the July 1 value would have been slightly less than the December sale price.

The 2011 assessments of all three properties were greater than the sale prices (the Board calculates Assessment to Sales Ratios – ASR's – of 1.35, 2.10 and 1.13 for the three sales).

Based on the sales evidence, the Complainant argued that the assessment for 2012 should be set at the December 2011 sale price which is truncated to \$1,860,000.

In rebuttal to the Respondent's land sale evidence, the Complainant argued that dates of sale, distance from the subject, land size and building size (one of the properties contained a 1,063 square foot building) made the sales unreliable as support for the assessment.

Position of the Respondent:

The Respondent's Summary of Testimonial Evidence stated, in part, "*Respondent's evidence has provided comparable sales to support the current assessment and the land rates for the 2012 assessment value, decisions illustrating the use of land value over improved value when land value outstrips the income approach to value, and decisions supporting that post facto sales should not influence its decision on value for the current assessment year.*"

The land value for the subject property was calculated as follows:

20,000 SF @ \$60.00/SF =	\$1,200,000
43,079 SF @ \$28.00/SF =	<u>\$1,206,212</u>
Total	\$2,406,212
Corner Lot Influence +5%	\$2,526,523
Truncated	\$2,520,000

With only a few exceptions (16th Avenue North and Macleod Trail were specifically mentioned), the Respondent assesses land designated C-COR at the same base rates as contained in the foregoing assessment calculation. In support of the rates, some details of four sales were provided. The properties transferred between February 2010 and May 2011. Parcel areas ranged from 6,159 to 19,602 square feet. Two of the properties were located on 16th Avenue NE, an artery that the Respondent confirmed was one of the locations where higher assessment rates are applicable. The third property was in the Montgomery area of northwest Calgary. The last property was in the subject area, just a few blocks east of the subject. That property, however, was said to be influenced by contamination. Sale prices, after time adjustments were \$113.68 and \$100.14 per square foot of land area for the two 16th Avenue NE sites, \$59.10 per square foot for the Montgomery site and \$46.24 per square foot for the Forest Lawn site that was influenced by contamination.

The Respondent argued that two of the Complainant's improved property sales were "post facto" sales and were therefore not applicable to a valuation that had to be made as at July 1, 2011.

Board's Findings and Decision With Reasons:

The Board accepts the Complainant's three sales as indicative of market values of improved properties in 2011. Although there were different building types and sizes involved, there was some consistency in the prices when broken down to a unit of comparison of price per square foot of building area. The Board noted that there was some variance in floor area of the building at 3411 – 17 Avenue SE, probably due to the presence of a basement. Nevertheless, the unit price based on a 16,987 square foot building (the area used in making its assessment), supports the rates for the other two properties. The Respondent provided no evidence to convince the Board that these were not valid sales and that they could not be relied upon in preparing the subject assessment.

The Board could not find sufficient comparability between the Respondent's land sales and the subject property. Two of the sale properties were on 16th Avenue North, an arterial where the Respondent conceded that C-COR land was valued higher than in most other areas of the city (such as the subject area). One of the properties was near the subject but it was labelled as

being influenced by contamination. Since there was no supporting documentation for the sale, the Board could not determine whether the site had been contaminated at the time of sale and if it was, which party (vendor or purchaser) was responsible for clean-up. There was no indication of the cost of remediation of the land. The remaining sale was a property in the Montgomery area of northwest Calgary. There was no indication of the comparability of that small (6,159 square feet) Monterey Avenue NW site to the 63,079 square foot 17th Avenue SE subject property.

Part of the Respondent's argument was that the policy of valuing property by the income approach and as land value only and then accepting the higher value as the assessment has been accepted by assessment review tribunals. That is not an issue here. The subject property was not an income producing property at the time of assessment and the Complainant did not raise valuation by the income approach as an issue. The Complainant's argument was that the subject property had sold as an improved (land plus building) property and its sale price, supported by two other nearby sales, should be the assessment. The Respondent did not argue that the value of the land as if vacant exceeded the value of the property as improved. It was only argued that the land value was greater than the value indicated by application of the income approach.

The decision of the Board was that the Complainant had raised a supported optional valuation of the subject property. The onus was then on the Respondent to convincingly support the land valuation. This was not done. The Board therefore accepts the Complainant's requested assessment as the best indication of market value.

The 2012 assessment is reduced from \$2,520,000 to \$1,860,000.

DATED AT THE CITY OF CALGARY THIS 15th DAY OF June 2012.



W. Kipp
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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.*

For Internal Use

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand Alone	Sales Approach	Sale of Subject ----- Comparables