

**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:

Lloyd & Flo Holdings Ltd. (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:	112060306
LOCATION ADDRESS:	7520 Macleod Trail SE, Calgary, AB
HEARING NUMBER:	65356
ASSESSMENT:	\$5,230,000

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.

The Respondent claimed that the Complainant essentially agreed with the base land rate used in making the assessment. The only disagreement was over adjustments to be made to the value. Since there would be no necessity to defend the base land rate, the Respondent chose to remove Page 61 (the page setting out land sales data) from Exhibit R-1. Neither the Complainant nor the Board had concerns about the exhibit change so Page 61 was struck from the evidence package. Once the sales evidence was removed from the Respondent's evidence, there was no need to introduce the Complainant's rebuttal so that disclosure document was not entered as an exhibit.

Property Description:

The property that is the subject of this complaint is a commercial property on the east side of Macleod Trail SE. It comprises a lot with frontage onto a service road paralleling Macleod Trail. The rear of the lot backs onto the rail right of way containing rail lines operated by CP Rail and the City of Calgary Light Rail Transit (LRT) system. Two buildings occupy the 73,950 square foot lot - a 5,700 square foot restaurant building, built in 1971 occupies the front portion and a 21,294 square foot warehouse type of building, built in 1972 occupies the rear portion of the lot. The front building is leased and occupied as a Cheesecake Cafe restaurant. The larger building is occupied as a roller skating rink. The assessment record classifies the restaurant building as a Quality A2 retail building while the roller rink building is rated at C+ retail quality.

The 2012 assessment on this property is based on a valuation of land only. The valuation methodology employed by the Respondent relates to parcel area. The first 20,000 square feet are valued at \$100 per square foot. In this instance, the balance of the parcel is valued at \$60 per square foot. The truncated total of \$5,230,000 is the assessment.

Issues:

In Section 4 (Complaint Information) of the Assessment Review Board Complaint form filed February 21, 2012, boxes #3 (assessment amount), #5 (assessment sub-class), #6 (type of property) and #7 (type of improvement) were checked. An attachment set out seven reasons for the complaint.

The Complainant's disclosure document received by the assessment review board on April 30, 2012, noted that the assessment had increased by 24.5% over the previous year's assessment. Rights of way in the middle of the parcel were stated to negatively impact on the value of the property. Since the property is leased, it would also be acceptable to prepare an assessed value using the income approach. Lastly, the assessment is inequitable when compared to assessments on other Macleod Trail properties.

At the hearing, the Complainant briefly spoke to equity but stated that the primary issue was the valuation method employed.

The Board determined that only one issue was raised at the hearing.

1) *Would the income approach provide a better indication of market value?*

Complainant's Requested Value: \$3,950,000

Position of the Complainant:

Note Regarding Equity

Tables (a list of four properties assessed as land only plus a list of 13 improved properties) setting out assessment data and year over year assessment changes on other Macleod Trail properties were in the Complainant's evidence however this data was not addressed during the hearing until the final summary stage when the Complainant suggested that the data supported the requested lower assessment. While equity had been identified as an issue by the Complainant but then not specifically addressed during the Complainant's evidence presentation, the Board did not consider it to be one of the issues.

Income Approach

The Complainant arrived at the requested assessment by undertaking an income approach valuation of the property. The restaurant building is leased at a rental rate of \$29.00 per square foot of building area. The roller rink is operated by the property owner so the rental rate applied by the City of Calgary in making the business tax assessment was input. That rate is \$9.00 per square foot. When these rates are input into the income approach formula containing typical rates for other factors such as 10% vacancy allowance, \$8.00 per square foot operating costs, 1.0% non-recoverable expenses and 7.50% capitalization rate, the indicated property value is \$3,950,000, an amount significantly lower than the assessment.

Position of the Respondent:

The 2012 assessment on the subject property follows the Respondent's current policy regarding valuations of all Macleod Trail property. Properties are first valued by the income approach (where there is a building). Then, only the land is valued by direct comparison and the higher amount is taken as the assessment. In the subject instance, the land value far exceeded a valuation by the income approach.

For comparison purposes, the Respondent calculated a property value via the income approach. Inputs were all "typical" as applied to other similar properties on Macleod Trail, including a \$33.00 per square foot rental rate for the restaurant building. All other inputs were the same as those used by the Complainant. The value by this approach was \$4,220,000.

The Respondent concluded that the market value of this property was in its land adding that an income approach value would make the assessment inequitable with other Macleod Trail property assessments.

Board's Findings and Decision With Reasons:

The Complainant has approached this complaint from one perspective.

Both parties applied an income approach as an alternative valuation method. The Complainant based that valuation on the actual rental rate that was being achieved in one of the buildings. That rent rate is lower than "typical" rent for Macleod Trail restaurant buildings. The Respondent used a "typical" rental rate for the restaurant. The value conclusions were \$3,950,000 and \$4,220,000.

The Board relied on the statutes in deciding this matter. AR 220/2004 (Matters Relating to Assessment and Taxation Regulation) at Part 1, section 2 states:

An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Both parties have generated value opinions using the income approach, although the Respondent did not set the income approach value as the assessment. Both income approach values are lower than the land value. Even though one of the two buildings is leased to a tenant, the Complainant has not convinced the Board that the income approach is a superior valuation method for this property. The Complainant's income approach ascribes a rental rate of \$29.00 per square foot to the restaurant which is unsupported by market evidence. The Respondent uses a "typical" rent rate of \$33.00 per square foot for comparable restaurant space. Further, with regard to inconsistencies in the comparables used, the Complainant has not convinced the Board that the land value is incorrect.

The 2012 assessment of \$5,230,000 is confirmed.

DATED AT THE CITY OF CALGARY THIS 29th 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 (minus Page 61)	Respondent Disclosure

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	Equity	Comparables
			Sales Approach	Land value
			Income	
			Approach	