

**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:

MV Property Ltd. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. McEwen, PRESIDING OFFICER

K. Coolidge, MEMBER

D. Julien, 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 2011 Assessment Roll as follows:

ROLL NUMBER: 028292407

LOCATION ADDRESS: 5455 FALSBRIDGE DR NE

HEARING NUMBER: 63765

ASSESSMENT: \$2,060,000

This complaint was heard on the 20TH day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- K. Fong

Appeared on behalf of the Respondent:

- D. Zhao

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

There were no procedural or jurisdictional matters raised by either party.

Property Description:

The subject property is a 5,715 square foot, freestanding full-service restaurant (zoned CM0301), constructed in 1991 and situated on a 28,310 square foot parcel located opposite the McKnight Village Mall in the Falconridge district of NE Calgary. The subject property is separated from the mall by FALSBRIDGE DR NE.

Issues:

Is the subject property assessment higher than fair market value and is it, therefore, inequitable to comparable properties? Specifically,

1. Should the subject rent rate be reduced from \$30 per square foot to \$28 per square foot?
2. Should the subject cap rate be raised from 7.50% to 7.75%?

Complainant's Requested Value:

\$1,850,000

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

The Complainant referred to the close proximity of the subject property to McKnight Village Mall which is assessed as a Community-Neighbourhood Shopping Centre. The subject faces the mall across FALSBRIDGE DR NE which is used by customers to access both the mall and subject property. The Complainant argued that because of proximity, a shared access route and the visibility of the subject property from the mall, it is reasonable to consider the subject an extension of the mall. The Complainant further argued that, as a logical extension of the mall, the subject should be assessed like a Neighbourhood Shopping Centre and the subject's Income Approach to Valuation inputs adjusted accordingly. The Complainant accepted the Typical Valuation Parameters for vacancy, vacancy shortfall and non-recoverables but argued that the subject cap rate be adjusted to 7.75% based upon the Community-Neighbourhood Cap Rate Argument before the Board.

1. RENT RATE

In support of the \$28 per square foot rent rate, the Complainant provided an equity comparable (Dairy Queen), located at 5220 FALSBRIDGE DR NE assessed at \$28 per square foot.

The Board accepts the assessed rate of \$30 per square foot for the subject property. The Board notes that the Complainant has provided only one equity comparable which is not sufficient evidence for the Board to understand the range of lease values for the subject property type.

In addition, the subject lease at \$32.50 per square foot and the Respondent's thirty-five equity CM0301 comparables assessed at \$30 per square foot are found to be the best evidence and to fully support the subject's assessed rate.

2. CAP RATE

The Board does not accept the Complainant's argument that the subject property should be assessed as a Community-Neighbourhood Shopping Centre due to its proximity to McKnight Village Mall. The Complainant provided no evidence that economic demarcations, for the purposes of assessment, are 'soft' guidelines that can shift depending on the adjacency of other properties.

The Board is also very uncomfortable finding for the 'adjacency argument' as adjacency becomes an argument with no apparent end; if Property B should be like Property A because of adjacency, what about Property C adjacent to Property B? In an assessment world without 'hard' economic demarcations, all properties would be assessed the same.

The Complainant provides evidence in support of a cap rate argument developed for Community-Neighbourhood Shopping Centres. The Board has no evidence before it in support of a cap rate argument for the subject type which is Freestanding Retail. Consequently, the Complainant's request to adjust the subject cap rate to 7.75% fails.

Board's Decision:

The assessment is confirmed at \$2,060,000.

DATED AT THE CITY OF CALGARY THIS 8 DAY OF JULY 2011.

C. McEwen

C. McEwen
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	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.*