

**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:

Metro West Developments Ltd. (as represented by Wernick Omura Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

E. Reuther, MEMBER

D. Pollard, 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 | LOCATION ADDRESS | HEARING NUMBER | ASSESSMENT |
|--------------------|-------------------------|-----------------------|-------------------|
| 071104301 | 3200 17 AV SE | 63877 | \$7,860,000 |
| 071104319 | 3200 17 AV SE | 63881 | \$1,970,000 |

This complaint was heard on 13th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- Mr. B. Boccaccio (Wernick Omura Ltd.)

Appeared on behalf of the Respondent:

- Mr. R. Ford

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

There were no concerns with the composition of the Board.

At the outset, both parties agreed that it would be appropriate to combine Hearing Numbers 63877 and 63881 as they were the same property. Hearing Number 63877 was for the taxable component of the property and Hearing Number 63881 was for the exempt component.

There were no preliminary issues, the merit hearing proceeded.

Property Description:

The subject property is a 2.98 acre site located in the Albert Park/Radisson Heights Community in SE Calgary. The site contains a single multi tenant building with a rentable area of 39,694 sq. ft. The building was constructed in 1973 and is considered to be of B Quality. The Sub property Use is CM0203 Retail Shopping Centre – Neighbourhood Shopping Centre. One CRU, comprising 8,000 sq. ft., is leased to the Salvation Army, which is exempt from taxation.

Issues:

The Assessment Review Board Complaint Form for Roll Number 071104301 contained two issues, namely: "Historical vacancy" and "market rents for this type of property".

The Assessment Review Board Complaint Form for Roll Number 071104319, the exempt component, contained one issue, namely: "market rents for this type of property".

| | | |
|--|-----------------------|-------------|
| <u>Complainant's Requested Value:</u> | Roll Number 071104301 | \$7,190,000 |
| | Roll Number 071104319 | \$1,553,000 |

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

Issue: Historical Vacancy

The Complainant's disclosure is labelled C-1.

The Complainant, at page 7, provided a chart showing that CRU 3B, comprising 4,269 sq. ft. (10.77 % of the Total leasable area) has been vacant since June 2007. He described the vacancy as being "chronic" and suggested that the City has recognized chronic vacancies in the past. He admitted that the vacancy could be attributed to management decisions. He requested the vacancy parameter in the Income approach to Value be increased from 7.25% to 10.00%.

The Respondent's disclosure is labelled R-1.

The Respondent advised that the assessment had been prepared utilizing the Income Approach to Value, and further that the vacancy parameter utilized in the calculation (7.25%) was a result of the City of Calgary South East Neighbourhood and Community Shopping Centre Vacancy Study which is on page 26. The respondent also advised that he was not aware of any current City policy with respect to "chronic" vacancy. He argued that the Complainant utilized actual vacancy in his Valuation versus typical, and that one vacant space would not be considered typical.

The Board finds the Vacancy Study submitted by the Respondent to be more compelling evidence.

Issue: Market rents

The Complainant, at page 13, provided the 2010 Income Approach Valuation wherein the Market Net Rental Rate that had been assessed for CRU 6,001 – 14,000 sq. ft. was \$18.00/ sq. ft. It was his opinion that the market had not changed and it would therefore be appropriate to utilize the same Market Net Rental Rate for the 2011 assessment. He requested a rate of \$18.00 / sq. ft. be applied to the CRU 6,001 – 14,000 sub component.

The Respondent, at page 30, provided Lease Comparables for CRU 6,001 – 14,000 sq. ft which were all in the SE, and of a similar class as the subject. The rates ranged from \$15.00 / sq. ft. to \$30.00 / sq. ft. with a median of \$20.50 / sq. ft. He noted the subject was included in the comparables. He argued that the market data supported the assessed Market Net Rental Rate of \$20.00 / sq. ft. that had been applied.

The Board finds the market data provided by the Respondent to be more compelling.

Board's Decision:

The 2011 assessments are confirmed as follows:

| Roll Number | Location Address | Hearing Number | Assessment |
|-------------|------------------|----------------|-------------|
| 071104301 | 3200 17 AV SE | 63877 | \$7,860,000 |
| 071104319 | 3200 17 AV SE | 63881 | \$1,970,000 |

Reasons

The Complainant failed to provide any evidence or policy to demonstrate how the City had treated "chronic" vacancies in the past and there was no market evidence submitted to support his request for a reduction from \$20.00 / sq. ft. to \$18.00/ sq. ft. in the Sub component CRU 6001 – 14,000 sq. ft.

DATED AT THE CITY OF CALGARY THIS 19 DAY OF July 2011.


B. Horrocks
Presiding Officer

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.*