

**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:

***Leung, Chi Lin & Leung, Wing Chiu C/O NAI Commercial
(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:	074000605
LOCATION ADDRESS:	5315 17 AV SE
HEARING NUMBER:	63893
ASSESSMENT:	\$6,360,000

This complaint was heard on the 14th 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:

- Ms. M. Byrne

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

There were no concerns with the composition of the Board.

There were no preliminary matters. The merit hearing proceeded.

Property Description:

The subject property, commonly known as Forest Hills Plaza, is a 2.37 acre parcel located in the Forest Lawn community in SE Calgary. The site contains a multi tenant building that was constructed in 1980 and is considered to be of C+ quality. The Sub property use is CM0210 Retail Store – Strip. The leasable area is 42,215 sq. ft. Major tenants include Mark's Work Warehouse and Market Produce.

Issues:

The Assessment Review Board Complaint form contained, among other things, two issues, namely: net rental rates and 2) area discrepancy.

Complainant's Requested Value: \$5,480,000

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

Issue: Net rental rates

The Complainant's Disclosure is in two parts and is labelled C-1 and C-2.

A. CRU 1,001 to 2,500 sq. ft.

The Complainant, at page 9 of C-1, provided the 2010 Rent Roll Summary and noted that one lease had been renewed in November of 2009 at \$11 / sq. ft., two leases had been renegotiated in 2010 and 2011, down to \$12/ sq. ft and \$10 / sq. ft. respectively, and further that one tenant has an actual rent rate of \$8.31 / sq. ft. He argued that Forest Lawn is not the most desirable area to operate a business and the fact the subject is located at the end of the strip does not help customer traffic. He requested a reduction in the Net Market Rent from \$14 to \$13 / sq. ft.

B. CRU 6,001 to 14,000 sq. ft.

The Complainant noted that Market Produce had renewed their lease in February of 2010 at \$7 / sq. ft. He requested a reduction in the Net Market Rent from \$12.00 to \$8.50 / sq. ft.

The Respondent provided the same Rent Roll Summary as the Complainant. He noted that the City had reviewed the Assessment Request for Information (ARFI) that the Complainant had submitted on page 36 of C-2. He noted there were some discrepancies with the Rent Roll Summary, but the actual rent rates being achieved, in the \$12 to \$14/ sq. ft. range, support the assessment. He argued that the City uses typical, not actual, rents to determine Net Market

Rent rates, and that the ARFI is only a portion of the data used to determine what is typical. He suggested that the Complainant had not met onus, and that the Rent Roll for one property does not constitute a market.

The Board finds the information contained in the ARFI, when examined in detail, generally supports the Net Market Rent rates utilized in the Income Approach to Value utilized to calculate the assessment.

Issue: Area Discrepancy

The Rent Roll Summary on page 9 of C-1 identifies the area as 42,117 sq. ft.
The Income Approach Valuation on page 13 of R-1 identifies the area as 42,215 sq. ft.
The Complainant advised the discrepancy is of no consequence.

Board's Decision:

The 2011 assessment is confirmed at \$6,360,000.

Reasons

The Respondent prepared the assessment utilizing typical market rates and mass appraisal techniques. The Complainant used site specific evidence for the subject only, which may not be reflective of market.

The Complainant did not provide any broader market evidence in support of his argument that Forest Lawn is an undesirable location.

The Rent Roll supports the Net Market Rent rate in the assessment.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF July 2011.


B. Horrocks
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. 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.*