

**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:

***Murlee Holdings Ltd. (as represented by Cobank Property Tax Services Inc.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Tom Golden, PRESIDING OFFICER
J Mathias, 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 2012 Assessment Roll as follows:

ROLL NUMBER:	113005300
LOCATION ADDRESS:	6825 11 St. SE
HEARING NUMBER:	65145
ASSESSMENT:	\$14,960,000.00

This complaint was heard on 5 day of July, 2012 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:

J Cohen

Appeared on behalf of the Respondent:

G Good

W. Ehler

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

[1] There were no preliminary issues to decide upon.

Property Description:

[2] The subject property is assessed as a big box commercial use of 115,474 square feet (sq ft) in size. There is a 503 sq ft discrepancy in reported building size between the Respondent's submissions and the Complainant's presentation. This development is located on 7.1 acres of land. The current occupant of the site is a furniture store. The sales model of the business in this store is to display furniture in an area of 60,706 sq ft and the remainder of the structure is used for storage, with delivery and customer pick up areas. The land is designated C-R which allows for a broad variety of commercial uses. An assessment was prepared on the direct comparison approach to valuation. The rental rate of \$10.00 per sq ft for the sales area of the building is not in dispute rather the rate applied to the storage area is contested.

Issues:

[3] Is it equitable to apply a rental rate of \$10.00 per sq ft to the storage area of the subject property? If the assessment is found to be inequitable should the storage area be valued as a warehouse rental rate of \$6.20?

Complainant's Requested Value: \$12,303,000

Board's Decision With Respect to Rental Rate:

[4] The storage area acts as a warehouse however the assessment is confirmed.

[5] The Complainant approached the issue in two ways. Firstly a rental rate argument was presented, where the rental value of \$6.20 was calculated. Secondly an equity comparison where a value of \$70.00 of Market Value per sq ft (MV/sf) was applied as oppose to \$129.00 per MV/sf

[6] The Complainant spent considerable time discussing the assessment history of the subject property. Starting in 1999 the assessment was reduced after either negotiation with the

assessor, an assessor's recommendation to an appeal body, or an actual appeal decision. In the Complainant's opinion the reason for the various reductions was recognition that the structure contained two different uses. The first use, of about ½ the structure, was retail and reasonably assessed and the second use of the other ½ of the structure as warehouse and over assessed.

[7] The Complainant argued the two uses were separate and distinct. It was pointed out that the areas were physically separated by a wall prohibiting access from the retail area into the warehouse area. As well it was the practice of the owners to not allow any public access to the warehouse area as equipment was operating in the open warehouse building area. The Complainant explained that the two areas were also constructed differently. The retail area had more finishing and lower ceilings while the storage area had high modern warehouse standard ceiling as well as large truck loading docks. Photos were also presented to illustrate the difference in structure.

[8] It was suggested that the Board use the rental rate of \$6.20 per sq ft as it was accepted and reported in a previous CARB decision. This rate was further supported by a chart in tab 13 of exhibit C-1 demonstrating that over the last year warehouse assessed values had fallen 5% to 6%. Last year's assessment would be more than adequate for the Complainant. In the calculation this yields a market value of \$12,303,000 or the requested assessment.

[9] In a more equity based argument the Complainant asked the Board to consider that since the storage area should be considered a warehouse, similar warehouse rates should be applied. A property at 5500 22 St SE, The Brick Warehouse was felt to be a good comparison as it was a similar structure and operated in a similar fashion to the subject property. Using a table of comparisons in tab 12 of exhibit-1 an equity calculation was prepared supporting the use of a \$70.00 per MV/sf. In this calculation a market value of \$11,760,000.00 was calculated in support of the requested assessment.

[10] The Respondent was unable to confirm that the previous reductions were based on splitting the assessment between retail and commercial. They also suggested that there was no way of knowing what other CARB decisions represented to this case.

[11] The Board agrees the Complainant provided a reasonable argument that the retail operation and the storage function were separated and the construction and use of the storage area is similar to a warehouse. The Board then looked at the Complainant's method of deriving the market value of the subject. In the instance of developing a representative rental rate the argument failed to convince the Board that the rate of \$6.20 was appropriate. The requested rate is based on a previous year's assessment complaint and a CARB decision that accepted the requested rate. No direct market evidence of applicable rental rates was provided to this Board.

[12] In terms of equity with similar warehouses the Board found the comparables used by the Complainant to be dissimilar to the subject. The Board found building sizes, age of structures and land areas in the comparables to be a concern. Of most concern however is that no comparables were in a similar commercial area with high visibility and traffic as the subject. Having given little weight to the comparisons, the Complainant's alternate assessment calculation was also not accepted.

[13] In summary there was not strong enough evidence for the Board to establish a market value based on the Complainants information and therefore the assessment is confirmed.

Board's Decision:

The assessment is confirmed at \$14,960,000.00

DATED AT THE CITY OF CALGARY THIS 20th DAY OF Aug 2012.



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.

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Big Box Store	Sales Approach	Equity