

**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

***Lansdowne Equity Ventures Ltd. (as represented by Assessment Advisory Group Inc.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before

***L. Yakimchuk, PRESIDING OFFICER
A. Huskinson, MEMBER
P. McKenna, 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: 124188616

LOCATION ADDRESS: 9627 Macleod Tr SW

FILE NUMBER: 67005

ASSESSMENT: \$10,260,000

This complaint was heard on July 25, 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:

- T. Youn, Assessment Advisory Group Inc.
- S. Cobb, Assessment Advisory Group Inc.

Appeared on behalf of the Respondent:

- E. D'Altorio, City of Calgary Assessment

Property Description:

[1] 9627 Macleod Trail SW is 160,848 square feet (sf) of land in Calgary's Haysboro Community with three buildings: retail "B" (15,859 sf), office "B" (9,012 sf) and retail "A2" (3,526 sf) all completed in 1984. It has been assessed as CM0206 – Big Box, using the Sales Comparison approach, at \$10,260,000.

Issues:

[2] What is the correct valuation approach for this property? It has been valued using the Sales Comparison approach but would the Income Approach be more appropriate.

Complainant's Requested Value: \$6,290,000

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

Evidence and Arguments

[3] Evidence and Arguments for CARB 0999 and CARB 1000 were presented together, and considered by the Board for each of the two decisions.

[4] The Complainant, Mr. T. Youn, argued that the property had been assessed for its highest and best use (HBU) and that the City of Calgary Assessor had decided that the property would have its highest value as Land Only.

[5] The Complainant argued that the current use is the best use, because there are three leases on the properties, expiring as late as 2019, with the option to renew for 10 years at that point. Further, he said that Section 289(2) of the Municipal Government Act (MGA) requires that each assessment must reflect the characteristics and physical condition of the property on December 31 of the prior year and that this section requires the City to recognize the legality of the leases in place. In addition, he argued that the preliminary assessment (C1 p.8,9) was based on Income, and the approach was changed when the assessment appeared to be too low.

[6] Mr. Youn presented an equity comparable which was a big box property next door to the subject to show that it was assessed on the Income Approach. He argued that it was inappropriate to choose which method of assessment was best, based on which produced the higher assessed value, resulting in two similar neighbouring properties being assessed using different methods.

[7] Mr. Youn continued by arguing that the raw land value of \$67/sf did not allow for the cost of terminating leases, and the cost of preparing the property for redevelopment. He argued that if the property was most valued for its land, the other nearby vacant properties would be a better choice for development.

[8] The Complainant presented the Lease for a portion of the property which indicated the property was leased until March 31, 2014.

[9] The Respondent, Mr. E. D'Altorio, City of Calgary Assessor, argued that this is not a HBU decision. The City must produce mass assessments which produce values that reflect Market Value of the properties. The Respondent argued that in this case, Vacant Land Value was closest to Market Value as verified by Land Sales.

[10] To support his argument, the Respondent produced a list of 11 Land Value sales of C-COR(1 and 2), C-C2, and C-N(1 and 2) properties in areas equivalent to the Macleod Trail area. He advised the Board there were no available Macleod Trail comparables in the assessment period. The available sales included eight lots under 20,000 sf (\$46.24/sf to \$113.68/sf), one lot at 43,560 sf (\$17.89/sf), one lot at 89,115 sf (\$16.37/sf) and one at 416,869 sf (\$20.64/sf). All 11 properties were bareland, with one having some improvements that were removed at sale time. Mr. D'Altorio explained that these comparables were used to arrive at the aggregate value of \$67/sf applied to the subject property.

[11] The Respondent, upon questioning, stated that leases are not considered in the Sales Approach assessment, because they do not reflect on the Market Value.

Board Findings

[12] The Board found that the Complainant's argument that the Income Approach best reflects the value of the property during the Assessment period, because of the legalities of breaking the lease and the costs of preparing the property for redevelopment, warranted consideration.

[13] The Board agreed there is merit to the notion that if Land Value is higher than Income Value a potential seller will ask that price. The Board also found that the Respondent's supporting Comparable property sales were for properties not truly comparable to the subject. Although it could be argued that the locations of those properties had similar characteristics to Macleod Trail, they did not correspond in size to the subject property, and their sales values/sf generally decreased as the size of the properties increased. The subject property fit in size between two properties that sold for \$16.37/sf and \$20.64/sf. As a result, the value of \$67/sf for land in the Macleod Trail corridor which was used in the assessment appears contrived.

[14] The Board considered the Preliminary Assessment which the City of Calgary had provided to the Complainant prior to the final Land Value Assessment. The Preliminary Assessment is based on the Income Approach, and the rent rates applied in it appeared in the range when compared to the actual rates on the Tenant Lease. This calculation does apply equitable City rates and was the most supportable option presented at the hearing. For this reason, the Board accepts the value presented on the Preliminary Assessment as the true assessed value for this property.

Board's Decision:

[15] The Board accepts the assessed Income Approach value of \$6,290,000.

DATED AT THE CITY OF CALGARY THIS 30 DAY OF July 2012.



L. Yakimchuk

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R2	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 MGB Administrative Use Only:

Decision No. 0808-2012-P

Roll No. 092028703

Subject	Type	Issue	Detail	Issue
CARB	Big Box	MultiTenant	Land Value	Comparables