

**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:

Linnell Taylor and Associates, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

D. Trueman, PRESIDING OFFICER

B. Jerchel, MEMBER

R. Roy, 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: 039020607

LOCATION ADDRESS: 6404 Bowness Rd. NW.

HEARING NUMBER: 60931

ASSESSMENT: 7,640,000

This complaint was heard on 27th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *D. Sheridan*

Appeared on behalf of the Respondent:

- *Shelly Turner*

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

There were no procedural matters with respect to this hearing.

Property Description:

The subject property is a two-story, 1965 structure, which was originally used as a hotel. The Complainant's document C1, appendix A. at page 11 lists a variety of development permits through 2008, 2009 and 2010 which changed the use of the building to main floor and basement retail rental units with second floor residential rental units. These consist of 7 main floor CRU's, two basement CRU's and 26 apartment units. The apartment units are similar to the former hotel rooms in that they do not include kitchens thus demonstrating a high rate of tenant turnover. The Complainant referred to them as rooming house units. There is a total of 28,254 ft.² of CRU area, roughly 5,900 of which is located in the basement and 8,487 ft.² of residential, rooming house area.

Issues:

The complainant based his request for a lower assessment on the following:

1. The assessment for 2011 represented a very high percentage of increase from the 2010 assessment.
2. The City based its' assessment on a capitalization rate of 7.5% which was not equitable with its' assessment of McDougall Place, for which it had used a 9% capitalization rate.

Complainant's Requested Value: \$ 6,930,000

Complainant's position:

Issue #1 The Complainant advised the panel that the year over year assessment increase, for the subject property, from 2010 to 2011 was 50.39%. He said that this was "worrying" and that he did not think it could be supported with market value increases that have occurred in the City of Calgary for the same period.

Issue #2 The Complainant contends that the subject property is of mixed use and of sufficient size that it will be unattractive to the general investment community due to added management challenges. He went on to say that the only larger property which demonstrated similar characteristics was McDougall Place and that although it was located on the northwest corner of 4th Ave. and 7th St. in the downtown area, and demonstrated a 10 story office building with a

separately assessed 92 suite apartment building it had traded and was being assessed as a similar mixed-use property. He presented 1999 and 2004 sales indicating overall capitalization rates of 10.5% and 11.2% respectively and he pointed out that the Assessor was assessing this property for 2011 using a 9% overall capitalization rate.

Respondent's position:

Issue #1 The City's representative at hearing could not explain the roughly 50% assessment increase because she was representing someone else's file. However, she offered that she was familiar with several other properties that had been subjected to even larger increases.

Issue #2 The Respondent opined that the Complainant's only issue was that of equity with similar properties. To this extent she supplied the capitalization rate of 7.5% used for the 2011 assessments of four properties which were located in the same Bowness neighbourhood and which were of roughly the same chronological age as the subject. She went on to say that the equity comparable presented by the Complainant reflected a capitalization rate which was used throughout the downtown neighbourhood for class B. office buildings such as is McDougall Place.

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

Issue #1

The Board reviewed the Municipal Government Act (MGA) section 285 which says in paraphrase that *each municipality must prepare annually an assessment for each property in the municipality*. It was therefore decided that, absent information with respect to the appeal status in 2010, and given the circumstances of recent development permits in the 2008 to 2010 time frame an under assessed property in 2010 which had undergone recent upgrades could easily have an assessment increase that appears unusually high.

Issue #2

A complainant's argument for a reduced assessment based upon equity must be supported with evidence from similar properties. The direction provided by the well known Bramalea decision requires similarity of the property type and usage. The Board was not convinced that the complainant's McDougall Place comparable provided sufficient similarity to the subject property in order for it to alter (reduce) the subject's assessment.

Board's Decision:

The complaint is denied and the assessment is confirmed at \$7,640,000

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


For D. Trueman
Presiding Officer

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

NO.	ITEM
1. C1	
2. C2 rebuttal	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.*