

**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:

***Katz, Michael/Feldman, Joy (as represented by Cushman & Wakefield Ltd.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***B. Horrocks, PRESIDING OFFICER
J. Joseph, MEMBER
D. Steele, 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:	035170208
LOCATION ADDRESS:	390 NORTHMOUNT DR NW
HEARING NUMBER:	63736
ASSESSMENT:	\$1,820,000

This complaint was heard on the 29th day of June, 2011 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:

- Mr. J. Goresht (Cushman & Wakefield Ltd.)
Ms. S. Ubana

Appeared on behalf of the Respondent:

- Ms. C. Neal

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 is a 0.63 acre parcel located in the Highwood Community in NW Calgary. The site contains a 7 bay retail strip centre that was constructed in 1967 and is considered to be of C- quality. The building contains 9,777 sq. ft. of leasable area.

Issues:

The Assessment Review Board Complaint form contained a number of statements which included "The assessment is too high" and "The assessment is inequitable in comparison with similar properties" amongst other things.

Complainant's Requested Value: \$1,375,000

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

Issue Market Value

The Complainant's Disclosure is labelled C-1.

The Complainant provided "A Short Narrative Market Value Appraisal" prepared by Elford Appraisal & Consulting Services Ltd., dated December 17, 2010. The Appraisal was prepared to "estimate current market value for internal business purposes and formation of a family trust". The effective date of the Appraisal was December 17, 2010. "The property rights appraised are those of the leased fee estate".

An Estimate Of Value By The Income Approach is provided on page 40 and following. A Lease Analysis Table was provided on page 41 indicating Average Net Lease Rates for 4 purported comparables from 7.50 to \$18.00 / sq ft. A Reconstructed Operating Statement for the subject was provided on page 44. Actual rental rates were reported from \$12.35 to \$17.65 / sq. ft. with an average of \$14.44 / sq. ft. It is noted that the total Income was based on a total area of 9,477 sq. ft. (300 sq. ft. less than reported for the subject). Utilizing a Vacancy Allowance of 3%, actual Operating Costs of \$35,310, and a Capitalization Rate of 7.5% yields a Market Value of \$1,282,960. Through questioning, it was determined that no actual leases for the subject had been presented to the appraiser, and of the leases reported on page 41, no commencement dates were provided and some of the reported leases were actually listings.

An Estimate Of Value By Direct Comparison Approach is provided on page 50 and following. A Sales Grid was provided on page 51 that contained 4 purported comparables, all from different quadrants of the City, with adjusted sale prices ranging from \$105 to \$177 / sq. ft. It is noted there are significant adjustments for Site Size and Interior Finish/Size/Condition. It concluded

that "Indicator #4 at \$145 / sq. ft. being comparable to the subject in terms of building size provides the best indication of value for the subject property on a per square foot basis" and therefore, by extension, the market value of the subject is estimated to be \$1,375,000.

The Respondent's Disclosure is labelled R-1.

The Respondent, at page 22 provided the Income Approach Valuation for the subject which utilized a typical Market Net Rental Rate of \$15.00 / sq. ft. for all spaces, to derive a Potential Gross Income of \$146,655 for the 9,777 sq. ft. of leasable area. Applying a Vacancy Rate of 3.75 %, Operating Costs of \$8.00 / sq. ft., Non Recoverables of 1.00% and a Capitalization Rate of 7.50% yields a market value of \$1,824,147.

The Respondent argued that the Complainant has only provided an appraisal of the property with an effective date of December 17, 2010 which assumes the value of the leased fee estate, and does not take into consideration the fee simple estate. She noted that the Income Approach used by the appraiser was incorrect, in that it did not account for all of the area in the building (300 sq. ft. short), and further the adjustments made in the Direct Sales Comparison Approach were significant, unsubstantiated and inconsistent. She further noted that no leases had been provided, and as a result, it was impossible to determine the Income being achieved. She did not know if the ARFI had been returned. She concluded that the Complainant had not met onus.

The Board finds the errors and unexplained adjustments in the Complainant's appraisal report significant enough to render the report of little or no value in determining the market value of the property as of the valuation date, June 30, 2010.

Board's Decision:

The 2011 assessment is confirmed at \$1,820,000.

Reasons

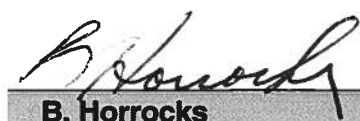
There is an error in the leasable area when calculating the Potential Gross Income.

Some of the lease comparables utilized in the appraisal are actually listings.

There are very large and inconsistent adjustments to Sales Comparables in the appraisal.

The Lease Comparables used in the appraisal are not typical of properties in the NW.

DATED AT THE CITY OF CALGARY THIS 26 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. R1	Respondent Disclosure
3. C2	2011 Assessment Summary Report

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.*