

**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, Benjamin (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:	059077701
LOCATION ADDRESS:	309 19 ST NW
HEARING NUMBER:	63735
ASSESSMENT:	\$1,150,000

This complaint was heard on the 30th 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.)

Appeared on behalf of the Respondent:

- Ms. S. Turner
- Mr. G. Good

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 0.28 acre parcel located in the West Hillhurst Community in NW Calgary. The site contains a four tenant retail strip shopping mall with 6,307 sq. ft. of leasable area. The building was constructed in 1948 and is considered to be of C quality.

Issues:

The Assessment Review Board Complaint Form contained the statements:

The assessment is too high, the assessment is inequitable in comparison with similar properties and the assessment is above the market value, amongst other things.

Complainant's Requested Value: \$932,616 (Complaint Form)
\$860,000 (Hearing)

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", the purpose of which, was to provide value documentation for internal business purposes and formation of a family trust. The date of valuation was September 3, 2010. The property rights appraised were those of the leased fee estate.

The Complainant, at pages 41 and following, provided an Estimate of Value By the Income Approach utilizing information regarding tenancy and building incomes as provided by the building manager, which resulted in a Potential Gross Income (PGI) of \$89,046. Deducting a Vacancy allowance of 3% and Operating Costs of \$22,028 resulted in a Net Operating Income of \$64,347 which when capitalized at 7.50% yields an estimated market value of \$857,960.

The Complainant, at pages 47 and following, provided an Estimate of Value By Direct Comparison Approach, utilizing four indicator sales that had taken place during the period May-08, Apr.-08, Oct.-08 and Jan.-10. The sales had been adjusted for Site Size, Interior Finish/Size/Condition. The adjusted range of value presented by the indicators is from a high of \$983,000 to a low of \$810,000. The market value of the subject property is estimated at approximately \$855,000 derived from the median.

The Appraisal concluded "it is our opinion that the market value of the subject property as at September 3, 2010 is \$860,000."

The Respondent's Disclosure is labelled R-1.

The Respondent, at page 21, provided the Income Approach Valuation for the subject, noting the assessor had utilized typical Market Net Rental Rates (not unlike actual) and other factors utilized for assessing strip malls, (Vacancy Rate of 6.50%, Operating Costs of \$7.00/ sq. ft. and Non Recoverables of 1.00%) to produce a Net Operating Income (NOI) of \$86,997 which when capitalized at 7.50% yielded a market value of \$1,159,960.

The Respondent argued that the Appraisal submitted by the Complainant is "post facto" and is based on the leased fee estate versus the fee simple estate required by the legislation. He said the Complainant's purported comparables were lacking in due diligence and that the adjustments that had been made in the Direct Comparison Approach were significant, unexplained and therefore suspect. He concluded that indicator #1, which was identified as the best comparable, had a Market Value of \$186 / sq. ft. and noted that the subject was assessed at \$182 / sq. ft.

The Board finds the Appraisal, the only evidence submitted by the Complainant, to be of little or no value due to the inconsistent and unexplained adjustments.

Board's Decision:

The 2011 assessment is confirmed at \$1,150,000.

Reasons

No confidence in the Appraisal submitted by the Complainant due to large unexplained adjustments.

No market evidence submitted by the Complainant to support a change in the assessment.

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

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.*