

**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 & Associates, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***D. Trueman, PRESIDING OFFICER***

***R. Roy, MEMBER***

***B. Jerchel, 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: 445125206**

**LOCATION ADDRESS: 200 177 Country Hills Blvd., NW**

**HEARING NUMBER: 62730**

**ASSESSMENT: \$4,310,000**

This complaint was heard on 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 11.

Appeared on behalf of the Complainant:

- *Joel Mayer*

Appeared on behalf of the Respondent:

- *Garry Good*

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

There were no procedural or jurisdictional matters prior to the commencement of this hearing.

**Property Description:**

The subject property is a retail strip constructed in 2000 and containing 13,162 ft.<sup>2</sup> of leasable area, on a site 1.22 acres in the Country Hills neighbourhood in northwest Calgary. There are a total of 8 CRU rental areas, occupied at least in part by some national tenants, and the property has been assigned a quality rating of A2.

**Issues:**

Has the assessor adequately accounted for a condition which the Complainant describes as chronic vacancy.

**Complainant's Requested Value:** \$3,050,000

**Complainant's position:**

The Complainant advised the board that the CRU rental area, formerly occupied by the tenant Movie Gallery, who vacated the space some 8 ½ months prior to the valuation date, had not been leased. He said that it should be noted also that this represented a vacancy of 14.5 months up to the condition date of December 31 which according to the Municipal Government Act section 289(2)(a) the assessor is legislated to consider in the preparation of his assessment. He said that this area of approximately 3500 ft.<sup>2</sup> represented a vacancy factor in the development of 26.3%. The Complainant went on to say that because the movie rental business is declining there were many such similar spaces for lease in the City of Calgary and that it was difficult to find a tenant due to greater than normal competition. He also said that reconfiguring the space in hopes of leasing to other kinds of tenants was difficult because of the HVAC system in place. He said that there was no dispute with any other of the input criteria that the assessor had used and he reckoned that a 25% vacancy allowance would be reasonable in view of the current "chronic" vacancy, landing him on the requested \$3,050,000 assessment amount.

**Respondent's position:**

The respondent pointed out that the vacancy was created by a tenant who had occupied the

space for nearly 10 years prior to their departure. He said that this in itself was an indication of the leaseability of the space. The Respondent went on to say that he had applied a 3.75% vacancy allowance in his assessment preparation and that this allowance properly considered the risk of vacancy and collection loss in the relevant marketplace such as is called for in valuation for assessment practices. He was eager to point out that a vacancy allowance is an expression of general economic or budgetary line item conditions and not an expression of physical condition.

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

At hearing the Respondent answered questioning regarding chronic vacancy. The Respondent testified that the City does not apply an allowance for chronic vacancy unless and until the condition has manifested itself for not less than three years (36 months). The Board accepts the proposition that management decisions tend to play a role in the leasing of a Commercial Rental Unit. The Board is also aware that the issue of vacancy allowance has been decided in several earlier board orders which have generally only decided to increase the vacancy allowance in special circumstances. It is the decision of the panel that such special circumstances are not part of this complaint.

**Board's Decision:**

The assessment is confirmed at \$4,310,000.

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

  
D. Trueman  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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.*