

**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:**

**1240725 Alberta Ltd.  
(as represented by Linnell Taylor Assessment Strategies), COMPLAINANT**

**and**

**The City Of Calgary, RESPONDENT**

**before:**

**M. Vercillo, PRESIDING OFFICER  
S Rourke, MEMBER  
A. Zindler, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

**ROLL NUMBER: 175177005**

**LOCATION ADDRESS: 800 CROWFOOT CR NW**

**FILE NUMBER: 65896**

**ASSESSMENT: \$8,550,000**

This complaint was heard on 7<sup>th</sup> day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- J. Mayer

Appeared on behalf of the Respondent:

- C. Yee

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

**Property Description:**

[2] The subject property, known as Crowfoot Square, is a retail shopping centre located in the "Arbour Lake" community of NW Calgary. According to the information provided the property contains two buildings; a 14,115 square foot (SF) commercial retail unit (CRU) and a 5,578 SF stand alone bank. Both buildings were constructed in 1998, with a total assessed rentable area of 19,693 square feet (SF). The buildings are situated on a 1.86 acre (81,055 SF) site that is zoned Direct Control District (DC).

[3] The subject is assessed using the Income Approach to Value. Applying a market rental rate of \$33.00 per SF on the 5,578 SF bank space and on 7,375 SF of CRU space and a market rental rate of \$37.00 per SF on the remaining 6,740 SF CRU space to calculate potential gross income. All space includes allowances for a 6.00% vacancy rate, operating costs of \$8.00 and a 1.00% non-recoverable rate to calculate net operating income (NOI) value. The NOI is capitalized for assessment purposes using a 7.25% capitalization rate (cap rate).

**Issues:**

[4] The issue raised on the complaint form and addressed at this hearing by the Complainant was the following:

- 1) The subject property sold in February, 2010 and its sales price, subject to time adjustment, is the best indicator of its market value.

**Complainant's Requested Value:**

[5] \$7,150,000 on the complaint form. \$7,593,300 at this hearing.

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

**ISSUE 1:      The subject property sold in February, 2010 and its sales price, subject to time adjustment, is the best indicator of its market value.**

**The Complainant** provided a 63 page document entitled "Complainant's Written Argument" that was entered as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence or argument with respect to this issue:

[6]      The subject was sold in February, 2010 at a transaction price of \$7,150,000. A RealNet retail transaction summary was provided regarding the sale. The report stated that the property was fully occupied at the time of sale with a net income of \$534,080, representing a cap rate of 7.5%.

[7]      A statement that both Municipal Government Board (MGB) and Court of Queen's Bench of Alberta (ABQB) decisions have previously acknowledged that a property's sale is *prima facie* evidence of value. In *MGB 036/06*, the Board found, "*the arm's length sale of the subject property is prima facie evidence of its market value.*" In *ABQB 512*, the following was noted, "*it is for that reason that the recent free sale of a subject property is generally accepted as the best means of establishing market value of that property.*"

[8]      A time adjustment factor calculation. Acknowledging that the subject's sale is 16 months prior to the July, 2011 valuation date, the Complainant offered two comparable properties that traded twice in the 2010/2011 time period. Of the two, the comparable property at 6331 Bowness Road NW was deemed to be the best indicator for time adjustment, as it traded first in January, 2010 and then again in August, 2011 and had no apparent irregularities on each sale in either time period. It was determined through this comparable, that a time adjustment factor of 6.02% be applied to the subject in order to determine its value as at July 1, 2011. In doing so, the Complainant calculated a requested assessment value of \$7,593,300. The second comparable sale was given less weight as one of the two transactions was a distress or foreclosure sale.

**The Respondent** provided a 39 page document entitled "Assessment Brief" that was entered as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence or argument with respect to this issue:

[9]      A table of sixteen lease rate comparable bank properties to the subject. The subject property's lease rate of \$31.50 per SF for the bank space with a lease start date of January 1, 2001 was also included in the analysis. The comparables leased areas varied in size from 3,005 SF to 10,694 SF. Lease start dates varied from January 1, 2001 (the subject) to July 1, 2011. Lease rates varied from \$24.00 per SF to \$45.00 per SF with an average rate of \$33.76 per SF and a median rate of \$32.50 per SF. The Respondent concluded that the subject's bank space is equitably assessed at \$33.00 per SF.

[10]      A table of twenty six equity comparable CRU spaces to the subject. All the comparables leased areas varied in size between 1,001 SF and 2,500 SF. All the comparables were assessed at \$37.00 per SF like the subject's five CRU spaces of similar size.

[11]      A table of the same twenty six equity comparable CRU spaces between 1,001 SF and 2,500 SF, this time comparing the actual lease rates of those spaces. Lease start dates varied from January 19, 2009 to June 4, 2011. Lease rates varied from \$23.00 per SF to \$44.00 per

SF with a median rate of \$38.00 per SF. The Respondent concluded that the subject's CRU spaces between 1,001 SF and 2,500 SF are equitably assessed at \$37.00 per SF.

[12] A table of seventeen equity comparable CRU spaces to the subject. All the comparables leased areas varied in size between 2,501 SF and 6,000 SF. All the comparables were assessed at \$33.00 per SF like the subject's two CRU spaces of similar size.

[13] A table of ten of the aforementioned seventeen equity comparable CRU spaces between 2,501 SF and 6,000 SF, this time comparing the actual lease rates of those spaces. Lease start dates varied from August 1, 2009 to July 1, 2011. Lease rates varied from \$21.00 per SF to \$40.00 per SF with a median rate of \$33.00 per SF. The Respondent concluded that the subject's CRU spaces between 2,501 SF and 6,000 SF are equitably assessed at \$33.00 per SF.

**The CARB finds the following with respect to this issue:**

[14] That the RealNet information on the sale of the subject property in February, 2010 provided no indication that the sale was not representative at its market value at that time.

[15] That the time adjustment factor offered by the Complainant was unchallenged by the Respondent.

[16] That the assessed rental rates used by the Respondent in his Income Approach to value were supported by his evidence and unchallenged by the Complainant.

**Board's Decision:**

[17] The complaint is accepted and the assessment is revised to \$7,590,000.

**The CARB provides the following reason's for the decision:**

[18] The sale of the subject property in February, 2010 provides compelling evidence as to its market value at that time. The time adjustment factor that was applied by the Complainant to the February, 2010 sale was unchallenged by the Respondent and is therefore accepted by the CARB.

[19] Although the various components used by the Respondent in his Income Approach to value appeared to be fairly and equitably applied, the assessment failed to adequately reflect the fair market value of the subject given its sales price in February, 2010 and time adjustment applied by the Complainant, with an estimate of value to July, 2011. In accordance with *Matters Relating To Assessment And Taxation Regulation (MRAT) 6(1)* "When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value..." The CARB believes that the Respondent failed in this endeavour.

[20] The CARB agrees with the statements that both Municipal Government Board (MGB) and Court of Queen's Bench of Alberta (ABQB) decisions provided by the Complainant. Namely, that "the arm's length sale of the subject property is prima facie evidence of its market value."

DATED AT THE CITY OF CALGARY THIS 28 DAY OF August 2012.



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.

(For MGB Office Only)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Retail	Neighborhood Mall	Income Approach	Cap Rate