

**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:**

***SHELSON INVESTMENTS LTD., COMPLAINANT  
(Represented by Assessment Advisory Group Inc.)***

**and**

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

**before:**

***Board Chair P. COLGATE  
Board Member B. JERCHEL  
Board Member K. FARN***

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 2012 Assessment Roll as follows:

**ROLL NUMBER: 063008908**

**LOCATION ADDRESS: 5555 STRATHCONA HILL SW**

**FILE NUMBER: 67141**

**ASSESSMENT: \$1,990,000**

This complaint was heard on 17 day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- Stephen Cobb, Assessment Advisory Group Inc. – Representing Shelson Investments Ltd.
- Terry Youn, Assessment Advisory Group Inc. – Representing Shelson Investments Ltd.

Appeared on behalf of the Respondent:

- Randy Farkas – Representing the City of Calgary

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal

[2] Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

[3] No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

**Property Description:**

[4] The subject property is a retail strip shopping centre, known as Strathcona Centre, located at 5555 Strathcona Hill SW, in the community of Strathcona Park. The single structure, situated on a 0.73 acre site, is comprised of 11,405 square feet distributed to six commercial retail units (CRU's) of varying sizes. The structure on the site was constructed in 1980. The property has been assessed using an 'Income Approach' for \$1,993,827.00, truncated to \$1,990,000.00 or \$174.48 per square foot.

**Complainant's Requested Value:** \$1,750,000.00 (Revised during the hearing)

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

[5] In the interest of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[6] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

[7] Prior Assessment Review Board decisions were placed before the Board in support of requested positions of the parties. While the Board respects the decisions rendered by those tribunals, it is also mindful of the fact that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. The Board will

therefore give limited weight to those decisions, unless issues and evidence were shown to be timely, relevant and materially identical to the subject complaint.

**Issues:**

**[8] Does the rental rates applied to the subject reflect its poor location?**

**Complainant's Evidence:**

[9] The Complainant testified that the request for a reduction was based upon the poor access and exposure experienced as a result of the subject's location and the surrounding roadways. Through the use of an aerial photo, ground level photographs and location maps, the Complainant presented to the Board the restrictive nature of access from Bow Trail SW, in that only traffic east bound on Bow Trail could exit onto Strathcona Hill SW. (C1, Pg.2-9) For westbound traffic on Bow Trail SW, it would be necessary to completely circumvent the community of Strathcona Park to access the site. Access for the residents of Strathcona Park to the site is not restricted.

[10] Based upon the poor location, the Complainant requested a revision to the income approach with reductions to the rates for the CRU's currently applied, as follows:

<u>Space</u>	<u>City Rental Rate</u>	<u>Requested Rental Rate</u>
CRU 0-1000 sq. ft.	16	14
CRU 1001-2500 sq. ft.	15	13
CRU 2501-6000 sq. ft.	13	12

The Board noted the request was revised during the hearing in response to errors in the Complainant's submission.

[11] The Complainant accepted the rates for vacancy allowance, operating costs/shortfalls, non-recoverable allowance and capitalization rate as applied by the City of Calgary. Based upon the requested changes to the rental rates, the Complainant submitted a verbal request for an assessment of \$1,750,000.00

[12] The Complainant submitted the "2010 City of Calgary Request for Information" which provided lease information on the tenants of the complex. (C1, Pg. 14-16). The Complainant noted that three out of the six leases in the complex were gross leases, two leases appeared to be month to month leases and one lease may now be vacant. With the exception of a new lease in 2012 all leases were 2009 or older.

[13] The Complainant submitted three comparable retail strip centres to show lower rental rates applied to similarly situated complexes. (C1, Pg. 17-33) The Complainant submitted photographs, site maps, "Property Assessment Detail Reports" and "Non-Residential Properties - Income Approach Valuation" reports into evidence. The comparables and the subject follow in a table prepared by the Board:

[14]

Address	CRU 0-1000 sq. ft.	CRU 1001 - 2500 sq. ft.	CRU 2501-6000 sq. ft.	Office	Poor Location	Vacancy Rate	Operating Costs	Non Recoverable Allowance	Capitalization Rate	Assessment	Notes
5555 Strathcona HI SW – current assessment	903 sq. ft. @ \$16.00	6437 sq. ft. @ \$15.00	4055 sq. ft. @ \$13.00			5.0%	\$8.00	1.0%	7.5	\$1,990,000	
5555 Strathcona HI SW – requested assessment	903 sq. ft. @ \$14.00	6437 sq. ft. @ \$13.00	4055 sq. ft. @ \$12.00			5.0%	\$8.00	1.0%	7.5	\$1,750,000	Request Assessment
1215 Lake Sylan Dr SE	8116 sq. ft. @ \$13.00	9273 sq. ft. @ \$12.00			500 sq. ft. @ \$7.00	7.25%	\$8.00	1.0%	7.5	\$2,390,000	
3419 26 Ave SW		1524 sq. ft. @ \$15.00	3327 sq. ft. @ \$13.00		5179 sq. ft. @ \$10.00	5.0%	\$8.00	1.0%	7.5	\$1,424,987	Has Exempt Component
675 Acadia Dr. SE	1800 sq. ft. @ \$15.00	7500 sq. ft. @ \$14.00	3312 sq. ft. @ \$13.00		800 sq. ft. @ \$7.00	7.25%	\$8.00	1.0%	7.5	\$2,100,000	

[15] The Complainant notes the comparables have better exposure in the market place, with better access to the sites. The property at 675 Acadia Drive SE has a 7-11 outlet, a national chain, as a tenant.

[16] The Complainant submitted a 2010 decision, ARB 0918/2010-P, which addressed the same issue on the subject property. The 2010 decision reduced the assessment based upon “access and egress from the subject property for non-residents of Strathcona Hill”. (C1, Pg. 36)

#### Respondent's Evidence:

[17] The Respondent stated the assessment for the subject property was based upon a mass appraisal income approach for the SW quadrant. The comparables in the SE quadrant would be valued in a different model, with resulting differences in rental rates and vacancy allowance, affecting the final assessment. The Respondent noted the analysis indicated strip malls in the SW quadrant would lease for a higher rental rate.

[18] The Respondent addressed the issue of the poor location and access for the subject through the presentation of maps and aerial photographs. The Respondent noted there was access from east bound Bow Trail SW, but not for west bound traffic.

[19] The Respondent stated the purpose of a strip mall retail property was primarily to serve the local neighbourhood. The subject property was constructed in 1980 and was fully leased on July 1, 2011.

[20] The Respondent reviewed the subject and the three comparables submitted by the Complainant, with respect to their location in the City of Calgary, their individual tenant mixes and the range of leases in place for each property. (R1, Pg.10-32)

[21] The Respondent submitted two decisions for the subject property – ARB 0918/2010-P and CARB 2717-2011-P – which reduced the assessment in 2010 and confirmed the

assessment in 2011. (R1, Pg. 50-60)

Findings of the Board:

[22] The Board was not persuaded by the initial income analysis, submitted by the Complainant, which contained numerous errors and unsupported requests. The Complainant's comment that it was unable to obtain the correct values in time for its submission does not find support with the Board. The Assessment notices were issued in January of 2012, but the Complainant's submission was dated July 5, 2012. The Board cannot accept that within a period of six months the Complainant was unable to obtain the accurate values as to rental rates and capitalization rates for the subject property when it presented the documents for two of the submitted comparables.

[23] When a Complainant recalculated and presented a new request during a hearing, the Board is forced to question the validity of the new calculation and requested assessment. The Complainant did not provide market evidence as to the requested rental rates, with the exception of a 2010 Assessment Request for Information. Again the Board was not persuaded by the Complainant's submission.

[24] The Board found two of the Complainant's comparables were located in a different market area in the SE quadrant of the City of Calgary and therefore the Board placed less weight on these when compared to the subject property.

[25] The Board found the Respondent had provided limited evidence to show the subject property did not suffer from a lack of exposure or access due to its location. The Respondent's statements that no recognition had been made, regardless of the 2010 ARB decision, as the 2011 confirmed the assessment does not sway the Board. The 2010 ARB decision was based upon the issue of the exposure and access to the site, as this Board had been asked to consider. The 2011 CARB decision was based upon the issue of capitalization rate changes and was confirmed due to lack of evidence with respect to the capitalization rate argument.

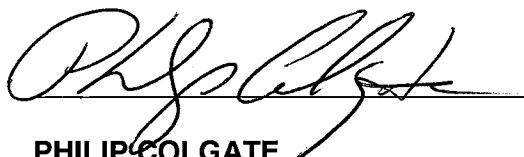
[26] The Board found in its deliberation, the best evidence was found in the maps, aerial photos and ground level photographs of the subject property. The Board found there is limited access to the site from Bow Trail SW, but it was its location of the fringe of the Strathcona Park community which had the most affect on the property. The comparables provided were all located within their respective communities with a market area all around the comparable sites, a situation very different for the location of the subject property.

[27] The Board found the subject property did suffer from a location problem for the market it serves and to a lesser degree the access from Bow Trail SW. The decision of the Board, due to the lack of convincing market evidence for a larger reduction, was a reduction to the current rental rates for the CRU spaces of \$1.00, and all other factors were unchanged.

**Board's Decision:**

[28] The decision of the Board was to reduce the assessment from \$1,990,000.00 to \$1,850,000.00.

DATED AT THE CITY OF CALGARY THIS 17 DAY OF September 2012.

A handwritten signature in black ink, appearing to read 'Philip Colgate', written over a horizontal line.

**PHILIP COLGATE**  
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. R2	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.*

## **LEGISLATIVE REQUIREMENTS**

### **MUNICIPAL GOVERNMENT ACT**

#### **Chapter M-26**

1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

#### **Division 1**

#### **Preparation of Assessments**

##### **Preparing annual assessments**

**285** Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

**289(2)** Each assessment must reflect (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

#### **ALBERTA REGULATION 220/2004**

#### **Municipal Government Act**

#### **MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) “assessment year” means the year prior to the taxation year;

#### **Part 1**

#### **Standards of Assessment**

##### **Mass appraisal**

**2** An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

##### **Valuation date**

**3** Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

#### **FOR ADMINISTRATIVE USE**

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Strip Plaza	Income approach	-Equity Comparables -Location