

**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:

394028 Alberta Ltd., (as represented by Wernick Omura Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Glenn, PRESIDING OFFICER

P. Pask, MEMBER

J. Massey, 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 2012 Assessment Roll as follows:

ROLL NUMBER: 101017408

LOCATION ADDRESS: 5226 Macleod Trail SW

FILE NUMBER: 65548

ASSESSMENT: \$3,100,000

This complaint was heard on Friday, the 17th day of August, 2012 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 11.

Appeared on behalf of the Complainant:

- B. Boccaccio, Agent for Wernick Omura Ltd.

Appeared on behalf of the Respondent:

- E. D'Altorio, Assessor for the Respondent

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

- [1] There were no issues or objections raised regarding jurisdiction or procedure.

Property Description:

[2] The subject is a 6460 SF restaurant built in 1993, coupled with a free-standing 96 SF retail food kiosk as a separate business, all of which comprises a 1.28 acre parcel of land, with a land designation of C-COR3, located on Macleod Trail South in the Manchester Industrial Community. The restaurant faces onto and has access to Macleod Trail. It is also bound by 1a St SW, and 52nd Ave SW in a roughly triangular shape.

Issues:

- [3] Is the corner lot allowance correct for the subject property?

Complainant's Requested Value:

\$ 2,945,000

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

The Complainant's Position:

(4) The Complainant argues that the subject should not have a 5% adjustment added to its assessment for being a corner lot. Both parties present aerial and ground level photographs which were helpful. The photos disclose that the subject is bound on the south side by 52 Ave SW which has no direct access to Macleod Trail. It does however access the subject property.

(5) The subject property is roughly level with Macleod Trail, but 52 Ave SW slopes slowly

downward away from Macleod Trail. Where 52 Ave SW and 1a St SW meet, the subject is approximately 4-5 metres higher than the roadway. There is no direct access to the subject property on the 1a St SW side.

(6) The Complainant argues that from an aerial view, the subject has the appearance of a corner lot with its advantages. However, when one looks closely at the lay of the land at ground level, there is no corner lot advantage. The Complainant argues that the normal corner lot advantage can be applied, if the commercial property in issue has traffic exposure on two sides, making it more visible, and therefore, more valuable.

(7) The Complainant queries where the advantage is here. The subject property borders northbound Macleod Trail on its west side. There is another business on the subject's north side. The east side is bordering 1a ST SW, but the subject buildings are not even visible to traffic on 1a St SW because of the subject property being much higher than street level on that side.

(8) Where the south side of the subject property borders 52 Ave SW, the roadway gradually ascends until there is only a 2 metre difference between the roadway and the subject property. The Complainant argues that this still does not provide the subject with the advantage of a corner lot influence.

(9) The Complainant completes their argument by stating that one cannot see either Macleod Trail, or the subject business from the southeast corner of the lot because of the height difference.

The Respondent's Position:

(10) The Respondent argues that the physical layout of the subject from the aerial view shows it is a corner lot and therefore the corner lot influence should be accounted for. It is not clear from the Respondent's argument which corner, or corners, they are referring to.

(11) The Respondent is simply adamant that there is a corner influence. They also note that the subject property has a -30% influence because of its topography.

The Board's Decision:

(11) The north west corner of the subject is bordered by Macleod Trail and another business. The Board finds that is not adequate for a corner influence. The north east corner of the subject is bordered by another business and 1a St SW, which is some 5-6 metres below the level of the subject at the corner. The Board finds that is not adequate for a corner influence.

(12) The south east corner of the subject is bordered by 1a St SW and 52 Ave SW, and the corner of the lot is 5 metres below the level of the subject property. The south west corner of the subject is bordered by Macleod Trail and 52 Ave SW. The problem is that there is no direct access to Macleod Trail from 52 Ave SW.

(13) In other words, where 52 Ave SW abuts Macleod Trail, it is simply a dead end. The

whole length of where 52 Ave SW borders the subject property, 52 Ave SW is well below the level of the subject property.

(14) The Board had considerable difficulty seeing where there was a proper corner influence on the subject, or at least where the corner influence exerted any real corner advantage for the subject property owner.

(15) Based on all of the foregoing, the Board finds that the 5% premium for a corner influence on the subject is simply not warranted, and accordingly the Board herewith reduces the subject assessment to the requested number which is \$2,945,000.

DATED AT THE CITY OF CALGARY THIS 22nd DAY OF NOVEMBER, 2012.



R. Glenn
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
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.*

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<i>Decision No.1473-2012-P Roll No.101017408</i>				
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Single storey retail	Equity	Influences	Corner Influence