

**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:

***Mercantile Resources Limited,  
(as represented by Wernick Omura Ltd.),  
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:

<b>ROLL NUMBER:</b>	<b>112001607</b>
<b>LOCATION ADDRESS:</b>	<b>6808 Macleod Trail SE</b>
<b>FILE NUMBER:</b>	<b>65546</b>
<b>ASSESSMENT:</b>	<b>\$3,500,000</b>

This complaint was heard on Friday, the 24th day of August, 2012 at the offices of the Assessment Review Board which are 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 City of Calgary

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

[1] When asked, there were no objections or issues raised by the parties regarding either procedure or jurisdiction.

**Property Description:**

[2] The subject property consists of two improvements on a 1.03 acre parcel of land located on Macleod Trail South between Glenmore Trail and 69 Ave SE. The first is a high end restaurant comprising 3,850 SF, and the second, a 3,473 SF auto service garage. The restaurant fronts onto Macleod Trail and the auto service facility is located at the rear of the property, backing onto Fisher St SE. Both businesses may be accessed from either Macleod Trail, or, Fisher Street. The subject is designated C-COR3, and the subject's present operations are a permitted use.

**Issues:**

- (A) Was the highest and best use concept used to assess the subject property?
- (B) Has the subject been treated the same as similar properties?
- (C) Is the subject at 2012 market value?

**Complainant's Requested Value:**

\$2,700,000

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

**The Complainant's Position:**

(3) The Complainant starts their argument by disagreeing with the Respondent's position where it assessed the subject as vacant lands. The Complainant argues the subject should have been assessed by the Income Approach to Value. They go on to say that the Respondent's approach in assessing the subject as vacant land suggests the value as vacant land is higher than the value generated from the income approach. Apparently, this would suggest that the subject's highest and best use is redevelopment.

(4) The Complainant does not agree that the highest and best use is redevelopment. They suggest that the subject land's present use is the highest and best use and meets the C-COR3 land use designation. They go on to provide 3 approaches to value namely: income, sales comparison as is, and, vacant land sales. They conclude the subject's present use as a restaurant and auto service centre is feasible, with an option for an investor to redevelop, or convert the present operations without tearing down the buildings.

(5) The Complainant goes on to say the present use of the subject justifies the selection of the Income Approach to Value, even though the Respondent says that land value is the way to go. They go on to say that it is much more feasible to have the present use stay in place, especially when considering the cost of replacement. In addition, they argue that some of the Respondent's comparables are post facto.

**Respondent's Position:**

(6) The Respondents review the Complainant's four Sales Comparables and then present evidence that two of them are contaminated, and therefore cannot be compared to the subject. In addition, the Respondent's Assessment Business Unit has valued any non-residential improved property, where the vacant land value exceeds the value as improved, on land value as a matter of policy. The Respondent provides case law ( CARB 0867-2010-P and CARB 2594-2011-P ) to support that assertion.

(7) The Respondent comments that most of the Complainant's comparables are smaller than the subject, and therefore, are not really comparable. The Respondent goes on to argue that 16<sup>th</sup> Ave North is a corridor similar to the Macleod Trail corridor, and that comparables from that area should be accepted as valid comparables in this situation, even though the Complainant argues very strongly against that admonition.

(8) The Respondent goes on to present 3 equity comparables of similar parcel size and other very similar characteristics located on Macleod Trail South. They argue that the Complainant has not proven that the price for the subject property should be \$100/SF. They conclude by arguing that the highest and best use in this situation is redevelopment.

**Board's Decision:**

- (9) The Board finds as follows:
- (A) The highest and best use concept was used to assess the subject property, as acknowledged by the Respondent. The Complainant's comparables do not stand up to scrutiny when considering the highest and best use concept.
  - (B) The subject seems to have been treated the same as other similar properties. This is apparent based on the Respondent's comparables.
  - (C) The subject seems to be assessed at Market Value, based on the Respondent's equity comparables. Once again, the Complainant's comparables do not stand up to scrutiny. Only one of them is of the same land use classification.
- (10) Based on all of the foregoing, the Complainant has not adequately demonstrated that the subject assessment is incorrect, nor is it in need of correction.
- (11) The within assessment is hereby confirmed in the amount of \$3,500,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF September, 2012.



R. Glenn  
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. An Appeal may be brought by any of the following:

- (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 Queens 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 person as the Court directs.

For MGB Administrative Use Only

Decision No.1474-2012-P      Roll No.122001607				
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land with 2 buildings	Equity	Income Approach	Market Value