

**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:

**1121695 Alberta Ltd.
(as represented by Assessment Advisory Group Inc.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**I. Zacharopoulos, PRESIDING OFFICER
S. Rourke, MEMBER**

[1] 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: 031016405
LOCATION ADDRESS: 3333 34 AV NE
HEARING NUMBER: 63337
ASSESSMENT: \$2,800,000

[2] This complaint was heard by a Composite Assessment Review Board (the Board) on August 2nd, 2011 at the office of the Assessment Review Board located at 3rd floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

[3] Appeared on behalf of the Complainant:

- *Mr. S. Cobb* *Assessment Advisory Group Inc.*

[4] Appeared on behalf of the Respondent:

- *Mr. G. Good* *City of Calgary Assessment*

BOARD'S DECISION IN RESPECT OF PROCEDURAL OR JURISDICTIONAL MATTERS:

[5] No procedural or jurisdictional matters were raised.

PROPERTY DESCRIPTION:

[6] The subject property is identified as a single tenanted retail development located at the intersection of 34th Avenue and 32nd Street NE within the Horizon industrial area. The parcel is shown to be 1.59 acres and improved with a 20,519 square foot (sf) building constructed circa 1983. The assessment is developed through the Direct Sales Comparison approach to value and indicates a rate of \$136.46/sf of building area.

REGARDING BREVITY:

[7] In the interests 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.

MATTERS/ISSUES:

[8] The matter identified by the Complainant as the basis for this complaint is "an assessment amount".

[9] The Complainant's position is based on the following issues:

1. **Does the Complainant's Direct Sales Comparison Approach (DSCA) to value analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?**

COMPLAINANT'S REQUESTED VALUE:

[10] The Complainant requests an assessment of \$2,659,946 as per Doc. C-1, pg 32. The

Assessment Review Board Complaint form shows \$2,200,000.

BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE:

[11] Along with the evidence the parties presented at the hearing the Board referenced the Municipal Government Act (MGA) and associated Regulations in arriving at its decision. We found the following to be particularly applicable to the complaint before us:

- **Municipal Government Act** Part 9 and Part 11.
- **Matters Relating to Assessment and Taxation Regulation 220/2004** (MRAT) Section 1; Part 1 and Part 5.1.
- **Matters Relating to Assessment Complaints Regulation 310/2009** (MRAC) Division 2 and Schedule 1.

[12] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. Evidence and argument was put before the Board by the Complainant in that regard; to show the assessment is incorrect and to provide an alternate market value as of July 1, 2010. The Board is to determine if (within the direction of the MGA and associated Regulations) it has been swayed to find the assessment before us to be incorrect and if the market value determination as of July 1, 2010 should be revised.

[13] With regard to the issue identified above the Board's findings are as follows:

- 1. Does the Complainant's Direct Sales Comparison Approach (DSCA) to value analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?**

[14] The Complainant advanced 3 sales in support of his position, accepting that one (see Doc. C-1, pg 14) appears to be a non-arm's length transaction. The Complainant provides an analysis under C-1, pg 32 where adjustments are made to the market references to bring them in line with the subject property.

[15] The Board gives no weight to the non-arms length transaction. The 2 remaining sales are both located some distance from the subject property, in fact both are located in SE Calgary. Furthermore, the Assessment Summary Reports provided for the two sale references (C-1, pg 11 & 13) show a quality ranking of "C-" while the subject is ranked as "C" as per C-1, pg 3. Lastly, both market references advanced by the Complainant are shown to be multi-tenanted strip retail developments.

[16] While the Board acknowledges the differences between the properties we find no market based validation for the adjustments made by the Complainant; they are therefore found to be purely subjective. The Board is therefore not inclined to consider these sales as suitable value indicators for the subject property.

[17] The Board finds the Complainant's DSCA analysis does not produce an appropriate assessment indicator for the subject property as of July 1, 2010.


[18] The Complainant also pointed to the year-over-year 39% increase in assessment of the subject property, suggesting there is no evidence to support such an increase.

[19] While the Board appreciates the indicated increase is substantial, we find no analysis was provided to address potential year-over-year fluctuations in the marketplace or the assessment base. Therefore, this unsupported objection to annual assessment fluctuations is not persuasive.

BOARD'S DECISION:

[20] The assessment is confirmed at \$2,800,000.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF SEPTEMBER 2011.


I. Zacharopoulos
Presiding Officer

APPENDIX "A"

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

| NO. | ITEM |
|-------------|--------------------------|
| 1. Doc. C-1 | Complainant's Disclosure |
| 2. Doc. R-1 | Respondent's 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.*