

**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:

Queen Street Holdings Ltd, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Mowbrey, PRESIDING OFFICER

H. Ang, MEMBER

D. Steele, 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: 077028900

LOCATION ADDRESS: 1801 9 AV SE

FILE NUMBER: 65908

ASSESSMENT: \$4,040,000

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

Appeared on behalf of the Complainant:

- The Complainant did not attend the hearing.

Appeared on behalf of the Respondent:

- R. Farkas

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

[1] The hearing opened 15 minutes later than the scheduled start time. Upon questioning by the Presiding Officer, the party present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias on this file.

Property Description:

[2] The subject property is an auto mechanical repair shop which is located at 1801 9th Avenue SE. The subject property has a 2012 assessment of \$4,040,000.

Issues:

[3] What is the market value of the subject property?

Complainant's Requested Value: \$2,890,000

Complainant's Position:

[4] Although the Complainant was not present at the hearing, the Board agreed to review the original complaint form with an attachment as there was no evidence disclosed to the Respondent or the Board.

[5] The Complainant's submission brought forth a warehouse comparable. The Complainant's submission stated that other repair facilities in the City of Calgary are classified under a different tax code.

Respondent's Position:

[7] The Respondent presented the Board with a 35 page brief marked as Exhibit R-1.

[8] The Respondent stated that the issues were the large year over year increase and equity. The Respondent advised the Board orally that a large year over year increase does not indicate the validity of an assessment (Exhibit R-1 page 3).

[9] The Respondent stated that the subject property was assessed on the income potential

using a regressed typical lease rate by observing market triple net leases from 2009 to 2011.

[10] Direct capitalization is the method employed to value all of the properties in the commercial retail inventory values using the income approach. This involves capitalizing the typical net operating income by a typical overall capitalization rate determined from comparable sales of similar properties (Exhibit R-1 page 4).

[11] The Respondent advised the Board that the subject property's typical net operating income was \$303,524. The typical market rent was \$14 per square foot, operating costs of \$8.00, vacancy allowance of 10% and a capitalization rate of 7.5% (Exhibit R-1 pages 10-11).

[12] The Respondent presented the Board with three equity assessment comparables (Exhibit R-1 pages 14-16).

[13] The Respondent requested the Board to confirm the 2012 assessment of \$4,040,000.

Board's Decision:

[14] The decision of the Board is to confirm the 2012 assessment of \$4,040,000.

Reasons for the Board's Decision

[15] The Board reviewed both the Respondent's and the Complainant's evidence and found the Respondent's evidence to be more compelling.

[16] Without the Complainant's submission or presence, the Board was not able to utilize the only comparable, which is under a different classification. The Complainant brought forth a warehouse comparable, which normally is assessed under the direct sales approach, whereas the subject property, being an automotive repair facility is typically assessed under the income approach. There was no market evidence brought forth by the Complainant.

[17] The Board was persuaded by the Respondent's equity comparables that support the subject property's assessment to be fair and equitable.

[18] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient and compelling evidence to enable the Board to reduce the assessment.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF September 2012.


Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

<u>NO.</u>	<u>ITEM</u>
1. R-1 35 pages	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.*