

**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:

**Indgion Holdings Ltd.
(as represented by Colliers International Realty Advisors Inc.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
D. Cochrane, MEMBER
K. Farn, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of the annual property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	016209009
LOCATION ADDRESS:	28 Crowfoot Circle NW
HEARING NUMBER:	66136
ASSESSMENT:	\$2,890,000

The complaint was heard on September 5, 2012, in Boardroom 1 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- T. Howell

Appeared on behalf of the Respondent:

- R. Farkas

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description:

The subject property is a 51,453 sq.ft. (square foot) parcel of land, improved with a 6,940 sq.ft. "B" quality, freestanding restaurant structure, constructed in 1988.

Issues:

In section 4 of the complaint form, the Complainant identified the following matters applicable to this complaint:

1. the description of the property or business;
3. an assessment amount;
6. the type of property;
7. the type of improvement.

During the course of the hearing, the Complainant evidence and argument only in relation to matter #3, an assessment amount. The Complainant set out the following grounds for the complaint in section 5 of the complaint form with a requested assessment of \$2,480,000:

Current tenant has asked for a rental reduction from current rents. Property was reduced last year \$360,000 in CARB 2180-2011-P. There is no lease on this property, it is month to month, and there has been 3 separate owners in past 26 months, all struggled. Old building, roof issues, HVAC problems, pavement problems, 1989 construction needs updating. Property increase is 17%, while tenant is asking for rental reduction.

Complainant's Requested Value:

At the hearing, the Complainant requested an assessment of \$2,520,000.

Board's Decision in Respect of the Issues:

[1] The Complainant argues that the assessment has been prepared by means of the income approach to value, and the Assessor failed to reflect the subject's deficiencies and challenges in the \$33.00 per sq.ft. assessed market rent coefficient, as allowed by the Board in the previous year (CARB 2180/2011-P).

[2] The Complainant argues that the surface parking, the ventilation system, and the roof of the structure are damaged, and require tens of thousands of dollars of repairs. Further, the property is located across from an automobile dealership and near a C-Train station, and the automobile dealer and transit commuters illegally park vehicles on the subject property. Moreover, the location near the C-Train station results in criminal activity on the property.

[3] In support of the subject property's alleged deficiencies and challenges, the Complainant provided photographs of the roof surface, pavement and curb damage, interior and exterior of the improvement, and torn roof-top ventilation couplers. The Complainant also provided photographs of vehicles in the subject's parking lot that he maintains belong to the adjacent automobile dealer, and photographs of police activity.

[4] The Complainant further argues that comparable sales support a reduction of the subject's assessment. In support of the argument, the Complainant provided "RealNet" sale transaction summaries of two single tenanted properties, exhibiting sale prices equating to \$326 and \$456 per sq.ft. in contrast to the subject's assessed unit rate of \$416 per sq.ft.

Address	Sale Date	Sale Price	Quality and Year Built	Building Size	Sale Price / Sq.Ft.	*TASP / Sq.Ft.
95 Crowfoot Cres. NW	Dec 2010	\$2,638,000	"B" 1997	7,256	\$326	
336 16 Avenue NW	Dec 2010	\$3,450,000	"A+" 2000	7,396	\$466	\$456

*Time Adjusted Sale Price

[5] The Complainant provided a time adjustment to the sale at 336 16 Ave NW, which indicated a time adjusted sale price of \$456 per sq.ft.

[6] In cross examination, the Complainant conceded that the 7,256 sq.ft. building size of the property located at 95 Crowfoot Crescent NW includes a basement area of 1,707 sq.ft., however, the Complainant maintains that this area is rentable area.

[7] In response to the Complainant's sales evidence, the Respondent submits that the Complainant's calculated sale price per sq.ft. of the property located at 95 Crowfoot Crescent NW is founded on the total area of the structure, which includes a basement area of 1,707 sq.ft. The Respondent maintains that the sale exhibits a sale price of \$475 per sq.ft. of main floor retail area, which approximates the \$466 per sq.ft. sale price of 336 16 Ave NW, and supports the subject's assessed unit rate of \$416 per sq.ft. In support of the argument, the Respondent provided an excerpt from the ARFI (Assessment Request For Information) response in respect of the property located at 95 Crowfoot Crescent NW, to demonstrate that the property contains 5,549 sq.ft. of main floor retail (bank) area, and 1,707 sq.ft. of basement area.

[8] In support of the assessed \$33.00 per sq.ft. market rent coefficient, the Respondent provided a summary of four restaurant leases located within class "B" buildings, exhibiting lease rates ranging from \$33.00 to \$46.31 per sq.ft.

[9] To demonstrate that the \$33.00 per sq.ft. lease rate has been equitably applied, the Respondent provided the assessment calculation worksheet excerpts for four restaurants located the vicinity of the subject property, indicating that all were assessed with the identical market rent coefficient.

[10] The Respondent maintains that an assessment is to reflect typical market conditions, and typical management. Further, the Complainant's deficiencies and challenges are deferred maintenance items in the owner's control, or issues that could be resolved through proper channels (e.g. policing or by-law enforcement).

[11] The Respondent submits that the decision of the Assessment Review Board in respect of the subject property's 2011 assessment complaint (CARB 2180/2011-P), is differentiated from the current matter as the decision indicates that there was no market evidence in support of the assessed market rent coefficient in the 2011 assessment complaint hearing.

Decision:

[10] The Board finds that there is insufficient evidence provided to disturb the assessment.

[11] The Complainants photographic evidence in respect of the physical condition of the subject property was given little weight, as the Board is unable to determine the extent of roof damage from the photographs. Further, there was no documentary evidence provided to quantify the cost to cure the alleged deficiencies. (e.g. contractor written estimates).

[12] Moreover, the Board agrees with the Respondent that the deficiencies are reflective of deferred maintenance. In the Board's view, repairs amounting to "tens of thousands of dollars" are relatively insignificant in relation to the \$2,890,000 estimated total property value.

[13] There was also no evidence provided in respect of the subject's current income and expenses, and no market evidence provided in support of the Complainant's requested \$28.00 per sq.ft. market rent coefficient.

[14] Without any market evidence to the contrary, the Board accepts that the assessed \$33.00 per sq.ft. market rent coefficient reflects typical market conditions for properties similar to the subject property. The assessed market rent coefficient is supported by the Respondent's evidence of typical restaurant leases; and the Respondent's evidence of comparable restaurant assessments demonstrates that the coefficient has been equitably applied.

[15] Notwithstanding the above, the Board is persuaded that the subject assessment is reasonable in relation to the sales evidence submitted by both parties, as the sales exhibit a range of (main floor) sale prices from \$466 to 475 per sq.ft., in contrast to the subject's (main floor) assessed unit rate \$416 per sq.ft.

[16] The Board agrees with the position of the Respondent in respect of the parking and policing issues raised by the Complainant. In the Board's view, until attempts to resolve the issues through appropriate avenues have been exhausted, the issues are not assessment related matters that the Board will consider.

The assessment is **CONFIRMED** at: **\$2,890,000.**

DATED AT THE CITY OF CALGARY THIS



DAY OF NOVEMBER, 2012.



J. Krysa,
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand Alone	Income Approach	Market Rent; Deferred Maintenance