

**COMPOSITE
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:

Eleemosynary Directions Inc. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. J. Griffin, PRESIDING OFFICER

J. Rankin, MEMBER

P. Charuk, 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 2011 Assessment Roll as follows:

ROLL NUMBER: 048042402

LOCATION ADDRESS: 2115 – 27th Avenue NE

HEARING NUMBER: 63415

ASSESSMENT: \$4,660,000. less \$2,620,000 (Exempt portion) = \$2,040,000 net

This complaint was heard on 4th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- C. Van Staden

Appeared on behalf of the Respondent:

- M. Berzins

Property Description:

The subject property is categorized as being a multi-tenanted warehouse type property that was originally constructed in 1980. The underlying 2.14 acre site is improved with a building having an assessed area of 49,703 Sq. Ft. The building features a finished area of approximately 73% and the site coverage is 33.66%. There is a significant portion of the subject building that is classified as being Exempt as it is occupied by departments of the City of Calgary. The current gross assessment equates to approximately \$94/Sq. Ft. of assessed building area.

Issues:

There are a number of interrelated issues outlined on the Assessment Review Board Complaint form; however, at the Hearing the Complainant reduced the issues to be one to be considered by the CARB:

1. The subject property was sold within months of the valuation date in the base year and that sales price is the best evidence as to the value of the property.

Complainant's Requested Value: \$4,150,000 less \$2,350,000 (Exempt portion) = **\$1,800,000.**

Party Positions:**Complainant's Position**

The Complainant introduced (Exhibit C-1 pgs. 15 – 18) sales summaries, from two different data reporting agencies, which relate to the November 2009 sale of the subject property at \$4,150,000. The Complainant acknowledges that the purchaser did spend approximately \$470,000 on the property subsequent to the purchase, but maintains that this expenditure was simply a matter of deferred maintenance. It is the contention of the Complainant that, in accordance with the *Acton* (*Madame Justice L. D. Acton*) decision (Exhibit C-1 pgs. 19 – 25) that the sale of the subject property is a reliable indication as to the market value of that property. It is the reported sales price of the subject, less the value of the Exempt portion, which forms the requested assessment.

Respondent's Position

The Assessor acknowledges the sale of the subject property but maintains that the assessed value, being higher than that reported sales price, stems from the fact that the new owners of the property spent approximately \$470,000, an amount not contested by the Complainant, in capital improvements which has added value to the property.

Board's Decision:

The assessment is **confirmed** at **\$4,660,000 - \$2,620,000 (Exempt portion) = \$2,040,000 net**

Decision Reasons:

The Complainant has based their request squarely on the sale of the subject property and the *Acton Decision*. The Respondent does not disagree that the property did indeed sell in an open market transaction in the base year of the valuation; however, the Respondent maintains that

the new owners spent approximately \$470,000 on capital improvements and provided (Exhibit R-1 pg. 19) evidence from the *Assessment Request for Information, Non-Residential Property Sale* (Sale ARFI) verifying those costs to cover: asphalt repairs of \$21,000, roof replacement at \$360,000 and HVAC replacement at \$89,250. The Respondent does not consider this expenditure as maintenance but suggest that same are recoverable costs that add value to the property.

The CARB agrees with the Respondent that the expenditure of approximately \$470,000 for a new roof and HVAC system is money that any reasonable property owner would expect to recoup from the market if the property were to be sold soon after that expenditure had been made. Conversely, a prudent purchaser would, if made aware of the requirement to replace the roof and HVAC systems prior to the purchase, factors that should come to light in any proper building inspection, then that purchaser would want compensation, in some form, for that anticipated expenditure. The Complainant's own evidence (Exhibit C-1 pg. 13) clearly shows the sale price of the subject to be an outlier compared to the other three sales noted on that same page; however if the \$470,000 is added to the reported sales price, as the Assessor has done, then the total no longer appears as an outlier.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF August 2011.


C. J. Griffin,
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant's Capitalization Rate Study
	Presented in three (3) parts
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.

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.*