

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Benjamin L. Katz and Nachman Feldman
(as represented by Cushman and Wakefield Ltd. - Property Tax Services), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
Y. Nesry, MEMBER
E. Reuther, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER:	065033201	065033300	065033409
LOCATION ADDRESS:	2 Spruce Centre SW	7 Spruce Centre SW	9 Spruce Centre SW
HEARING NUMBER:	63734	63733	63732
ASSESSMENT:	\$570,000	\$576,000	\$948,000

The complaints were heard on July 26, 2011, in Boardroom 8 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- S. Ubana

Appeared on behalf of the Respondent:

- M. Byrne

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 properties are three, individually titled parcels of land, 20,959 sq.ft. (square feet) in total area, and improved with three, attached, concrete block retail structures 12,691 sq.ft. in total area, constructed in 1955 to 1959. The improvements are operated collectively as a strip shopping centre known as the Spruce Cliff Shopping Centre. The particulars of each parcel are detailed below:

LOCATION ADDRESS:	2 Spruce Centre SW	7 Spruce Centre SW	9 Spruce Centre SW
PARCEL SIZE (Sq.Ft.):	5,988	5,988	8,983
IMPROVEMENT SIZE (Sq.Ft.):	3,200	3,234	6,257
YEAR OF CONSTRUCTION:	1959	1956	1955

Issues:

The Complainant raised the following matters in section 4 of the complaint forms:

1. the description of the property or business
3. an assessment amount
4. an assessment class

During the course of the hearing the Complainant did not provide evidence or argument in respect of matters 1 and 4. The Complainant set out a number of grounds for the complaint in section 5 of the complaint form, however at the hearing the Complainant's evidence and argument related to only the following issue:

Issue: "The properties are incorrectly assessed base on market value and equity. The independent appraised value of the property \$145 per square foot." [C1, p.2]

Complainant's Requested Values:

ROLL NUMBER:	065033201	065033300	065033409
LOCATION ADDRESS:	2 Spruce Centre SW	7 Spruce Centre SW	9 Spruce Centre SW
CURRENTASSESSMENT:	\$570,000	\$576,000	\$948,000
REQUESTED ASSESSMENT:	\$464,000	\$469,000	\$907,000

Parties' Positions

The Complainant submitted an independent appraisal of the subject properties setting out two approaches to value; the income approach which resulted in a value conclusion of \$1,750,000, and the direct comparison approach which resulted in a value conclusion of \$1,800,000. The final estimate of market value as at October 20, 2010, was \$1,800,000 or approximately \$145 per sq.ft. of leasable improvement area [C2].

The Complainant also provided an equity comparison analysis identifying the assessment per square foot rate of the total improvement areas and of the total land areas, as well as the assessment sales ratios of the sales used in the appraisal report noted above [C1, p.38].

The Respondent did not submit any market evidence to refute the direct comparison approach conclusion in the Complainant's appraisal report; however, she argued that the Complainant's sales comparables were dissimilar to the subject property as the assessed net rent coefficient for indicators numbered 1 through 3 at \$19.00 per sq.ft. were considerably higher than the \$15.00 per sq.ft. applied to the subject properties [R1, pp.34-39].

The Respondent further did not submit any market evidence to refute the Complainant's net lease rate evidence, or in support of the assessed \$15.00 per sq.ft. net rent coefficient applied in the assessment calculation. In support of the 7.5% capitalization rate applied in the subject assessment, the Respondent submitted a summary of 14 strip shopping centre sales that transferred between September 2008 and June 2010, exhibiting a range of adjusted capitalization rates from 5.88% to 8.59%, and a median rate of 7.48%, as well as a summary of third party published capitalization rates ranging from 6.75% to 8.75%.

Decision

The Board finds that there was insufficient evidence to conclude that the properties are incorrectly or inequitably assessed.

The Board did not find the income approach conclusions in the appraisal report to be compelling evidence of the market value of the subject properties. With respect to the capitalization rate, the Board was not persuaded that the six "Industrial/Office" capitalization rate indicators identified on page 52 of C2 were similar in nature to the subject property, a retail strip shopping centre. Further, the author's 7.75% capitalization rate conclusion was found to be highly subjective, as it was determined from a sample of capitalization rates ranging from 6.4% to 11.7%, with limited explanation. Notwithstanding the above, the Board finds that the effective difference between the assessment coefficient of 7.50% and a 7.75% capitalization rate results in a value difference of 3.2%; a reasonable variance between two "estimates" of value when compelling market evidence of comparable properties is unavailable.

With respect to the lease analysis on page 46 of C2, the table set out net lease rates for superior properties at \$17.44 to \$18.00 per sq.ft., and a lease rate for an inferior property at \$7.50 per sq.ft. Indicator number 3, not noted to be superior or inferior to the subject, exhibits an (asking) net rent rate of \$15.00 per sq.ft., which is not unreasonable in contrast to the average of the contract rents in place, and equal to the net rent coefficient in the current assessment. The Board also noted that none of the lease comparables were located in the same quadrant of the municipality as the subject property.

The Board also did not find the direct comparison approach conclusion in the appraisal report to be compelling evidence of the market value of the subject properties.

Although the Respondent provided the assessor's net rent coefficient for indicators numbered 1 through 3, at \$19.00 per sq.ft. to demonstrate that the sales were dissimilar to the subject property, the Board notes that this is not market evidence, and therefore was afforded no weight. The Board however was not persuaded that the Appraiser's four sales were adequately comparable to the subject due to the significant total adjustments required to Indicators 1 through 3, ranging from 38.6% to 53.8%, which included significant questionable adjustments for "Interior Finish/Size/Condition". For example, indicator 1 was adjusted by -\$600,000, (21% of the sale price) although it is approximately the same size as the subject. Indicators 3 and 4 are both deemed "average" condition and are within 300 sq.ft. in size; however, indicator 3 was adjusted -\$850,000 while indicator 4 was only adjusted -\$110,000. Further, the Board noted that indicator 4 was a sale of a "medical service / government office" structure and not a strip retail centre, and three of the four indicators were located in a different quadrant of the municipality than the subject. The Board may have found it helpful if the author of the report was in attendance and able to speak to its conclusions.

The Board finds the Complainant's equity analysis is confusing and inconclusive and did not apply any weight to this evidence, as the analysis included 2 entries for 9 Spruce Centre SW with different retail and land areas, exhibiting different rates per sq.ft. Further, the ASR (Assessment: Sale Ratio) did not appear to reflect the ratio of the assessment divided by the sale price. Without explanation from the Complainant, the Board was unable to determine what the Complainant was attempting to demonstrate.

Board Decision:

The assessments are confirmed at the following values:

ROLL NUMBER:	065033201	065033300	065033409
ASSESSMENT:	\$570,000	\$576,000	\$948,000

DATED AT THE CITY OF CALGARY THIS 22 DAY OF SEPTEMBER, 2011.



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
3. C2	Complainant's Submission - Appraisal

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	Strip Plaza	Sales & Income Approaches	Capitalization Rate Net Market Rent