

**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:

***Safeway Holdings (Alberta) Ltd (as represented by Linnel Taylor Assessment Strategies),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***T. Hudson, PRESIDING OFFICER
J. O' Hearn, MEMBER
J. Joseph, 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: 097002208

LOCATION ADDRESS: 3716 61 AV SE

HEARING NUMBER: 60794

ASSESSMENT: \$3,910,000

This complaint was heard on 16 day of August, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *J. Mayer*

Appeared on behalf of the Respondent:

- *M. Byrne*

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

There were no procedural or jurisdictional issues raised by the parties.

Property Description:

The subject property is a 2.45 acre or 106,674 square foot (sf), parcel of land, located in the Foothills industrial park. It was improved in 1974 with two single storey buildings with commercial retail (CRU) units, an auto repair shop, and a gas bar; a total 22,168(sf), of assessable space. The subject property has Commercial Corridor 3 (C-COR3) land use designation.

The subject is currently assessed based on vacant land value. The assessment was calculated using Commercial Corridor 3 (C-COR3) vacant values of \$65 per square foot (psf.) for the first 20,000sf, and \$28psf. for the balance. A +5% adjustment for corner lot and traffic main influence was also applied, for a total assessment of \$3,910,000 (rounded), or \$176.38 psf.

Issues:

The Complainant identified that the assessment amount exceeds market value, and is not equitable with the assessment of similar properties. The Complainant argued that the assessment method used by the Respondent, offends Section 289 (2) (a) of the Municipal Government Act (MGA), which requires that an assessment must reflect the characteristics and physical condition of the property on December 31 of the year prior to the year in which the tax is imposed. The property included building improvements on December 31, 2010, but they are not included in the current assessment.

Complainant's Requested Value: \$3,465,000 (rounded), or \$156.30 psf.

Board's Decision in Respect of Each Matter or Issue:

The Board finds that an assessment based on capitalized income is the best estimate of both market value, and assessment equity for the subject property.

The Complainant argued that the vacant land sale value assessment exceeds market value for the property and contravenes Section 289 of the MGA. The referenced section of the MGA does state that the characteristics and physical condition of the property must be reflected in the assessment. The Complainant prepared a capitalized income value assessment estimate of \$3,465,000 for the subject property. However, the estimate failed to account for the contribution of \$45,000 to potential gross income (PGI), from the gas bar improvement on the property. A capitalized income value prepared for the subject by the Respondent, based on typical factors and including the gas bar income component is \$3,710,000.

The Complainant also submitted the 2009 sale of a retail strip property similar to the subject, zoned C-COR3, and also located in the Foothills industrial area at 6222 36 ST SE. The sale produced a value of \$135 psf based on the 20,675 sf of improvements on the property. When applied to the subject, the estimate of market value is \$3,000,000 (rounded).

The Respondent argued that when an improved property is incapable of producing a capitalized income value which exceeds the established land value then the land value represents the market value of the property. The Complainant did not challenge the values per square foot of land or the influence adjustment used to prepare the assessment.

The Board agrees with the Complainant that the subject is a functioning retail property in good condition with no sign of imminent redevelopment pressure. Assessment based on land value only is therefore premature and produces inequity with assessments of competing properties.

Board's Decision: The assessment is reduced to \$3,710,000 (rounded), or \$167.35 psf.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF SEPTEMBER 2011.



T. B. Hudson
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
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.*

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<i>Decision No. 1754</i>		<i>Roll No. 097002208</i>		
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Sub-type</i></u>	<u><i>Issue</i></u>	<u><i>Sub-issue</i></u>
CARB	Retail	Strip plaza	Income approach	Land value only