

**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:

***970742 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: 072021447

LOCATION ADDRESS: 3908 17 AV SE

HEARING NUMBER: 60959

ASSESSMENT: \$1,130,000

This complaint was heard on 17th 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 matters raised by the parties

Property Description:

The subject property is a 0.40 acre, or 17,534 square foot commercial parcel of land; improved in 1979 with 5,208 square feet (sf) of commercial retail unit (CRU), assessable space. The property was assessed for 2011 based on vacant land value. The assessment was calculated using Commercial Corridor 2 (C-COR2) vacant values of \$65 per square foot (psf.) for the first 20,000 sf, and \$28 psf. for any balance. The total current assessment is \$1,130,000 (rounded), or \$64.44 psf. of land.

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 includes building improvements at December 31, 2010, but they are not included in the assessment.

Complainant's Requested Value: \$815,598, or \$46.51 psf. of land.

Board's Finding in Respect of Each Matter or Issue

The Complainant argued that the vacant land value based assessment exceeded market value for the property and contravened 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 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 established values for vacant commercial land assessment, are based on eight (8) sales that occurred in the period between August of 2008 and March of 2010 in various Calgary locations.

However, the most recent sale on March 6, 2010, involved a property located at 4504 17 AV SE, in reasonable proximity to the subject, for a time adjusted price of \$894,375, or \$45.63 psf. The land parcel is 0.45 acres which is directly comparable to the subject land parcel size of 0.40 acres. When this vacant land sale value is applied to the subject property the market value estimate is \$800,076, based on land only.

Both of the parties presented a capitalized income approach assessment estimate for the subject property. The only difference between the calculations, was the rent rate applied to the CRU space. **The Board finds that the rate of \$15 psf. applied by the Respondent is a better reflection of market rent, and results in an assessment estimate of \$876,500 for the subject property.**

The Complainant argued that the land value based assessment of the subject property is premature at best. The capitalized income approach revised estimate is supported by the most recent market sale of vacant commercial land similar to the subject. **Therefore, the Board finds that the best market evidence supports a reduced assessment for the subject property, based on the income approach to value, and using typical rates.**

Board's Decision: The assessment is reduced to \$870,000 (rounded), or \$49.61 psf. of land.

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. C2	Complainant Rebuttal
3. 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. 1761</i>		<i>Roll No. 072021447</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