

**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: 072021439

LOCATION ADDRESS: 3912 17 AV SE

HEARING NUMBER: 60949

ASSESSMENT: \$918,000

This complaint was heard on the 18th 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:

- *K. Gardiner*

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

The Complainant noted that the subject property is currently assessed for a minor amount of storage space that, in their view, does not exist. The Respondent committed to investigate this matter prior to the 2012 assessment, and the Complainant agreed to proceed on that understanding.

Property Description:

The subject property is a 0.16 acre parcel in the Forest Lawn community, improved in 1979, with a free standing building including 2,100 square feet (sf) of fast food restaurant space, and 178sf of storage space. The subject is assessed based on capitalized income at \$918,000 (rounded), or \$402.99 per square foot.

Issues:

The Complainant identified that the assessment amount exceeds market value, and specifically that the lease rate applied to the restaurant space should be reduced to \$30 psf. from \$37. All of the other value factors used by the Respondent to calculate the capitalized income assessment estimate were accepted.

Complainant's Requested Value: \$739,116, or \$324.45 psf.

Board's Finding in Respect of Each Matter or Issue:**What is the Correct Rent Rate for the Restaurant Space in the Subject Building?**

The Complainant provided the rent rates for two (2) pad site fast food restaurants, and one retail store in support of the request for a \$30psf. lease rate. The actual lease rate of \$25psf. for the subject restaurant was also submitted. The sale of the subject property in 2008 for the unadjusted (for time), sale price of \$341psf., was also submitted in support of the reduced assessment requested.

The Complainant also argued that the subject parcel is too small to allow for a drive-thru service, which is reflected in the below market lease rate in place. However, the photo evidence on this point was inconclusive.

The Respondent provided a chart of current lease rates for eight (8) free standing fast food restaurants similar to the subject in support of the \$37psf assessed lease rate. Including the below market rate of the subject, the median market rate was \$36.53 psf.

The Respondent also submitted a chart of six (6) free standing fast food restaurants located along 17 AV SE, including the subject, all assessed at \$37psf.

The Board finds that the assessed rent rate of \$37psf. is correct for the subject property.

Board's Decision: The assessment is confirmed at \$918,000.

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.*

For MGB Administrative Use Only

Decision No.1764		Roll No.072021439		
<u>Subject</u>	<u>Type</u>	<u>Sub-type</u>	<u>Issue</u>	<u>Sub-issue</u>
CARB	Retail	Stand alone	Income approach	Market rent