

**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: 072138506**

**LOCATION ADDRESS: 4802 17 AV SE**

**HEARING NUMBER: 60953**

**ASSESSMENT: \$1,670,000**

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:**

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

**Property Description:**

The subject property is a 0.70 acre, or 30,571 square foot commercial parcel of land; improved in 1980 with 4,860 square feet (sf) of commercial space leased to Enterprise Rent- A- Car. The property was assessed for 2011 based on vacant land value. The assessment was calculated using Commercial Corridor 2 (C-COR2) vacant land values of \$55 per square foot (psf.), and includes a +5% traffic main and corner lot influence adjustment; for a total of \$1,670,000 (rounded), or \$54.30 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:** \$1,038,182, or \$33.95 psf. of land.

**Board's Finding in Respect of Each Matter or Issue:**

**What Valuation Approach Results in the Best Evidence of Market Value for the Subject Property?**

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. However, no market evidence was submitted by the Respondent in support of the \$55 psf. rate used to arrive at an "established" land value for the subject. In addition, the Respondent did not submit an estimate of market value for the subject using the capitalized income approach, in order to allow comparison of the results.

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 Complainant also argued that the vacant land value based assessment of the subject property is premature at best. The subject has a lease continuing through 2016, and early termination for demolition and redevelopment is therefore legally constrained. Valuing the subject based on vacant land value is also inappropriate in the absence of any evidence of a Highest and Best Use Analysis. The subject property continues to function as an income producing property, and should be assessed based on the capitalized income approach.

The Complainant reviewed current market rates for income producing properties with similar land uses and assessable space, in order to determine typical rates for rent, vacancy, shortfall allowance and capitalization rates. The subject property has an actual lease rate of \$12psf, but the Complainant chose a rate of \$18psf, as typical.

**The Board finds that the capitalized income approach provides the best evidence of market value for the subject property.**

**Is the Assessment Equitable with the Assessments of Similar Properties?**

The Respondent provided a list of the addresses of twenty-four (24) properties along 17 AV SE assessed on the same vacant land value basis as the subject. However, there was no additional evidence submitted with which to compare these properties with the subject.

The Complainant submitted evidence on the assessments of three (3) properties in support of the equity issue. However, only two (2) of the properties were assessed based on capitalized income. One (1) of the two (2) properties is located at 4420 17 AV SE, but did not represent a good comparable to the subject property.

**The Board finds the evidence on the equity of the assessment inconclusive.**

**Board's Decision:** The assessment is reduced to \$1,038,000 (rounded).

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

A handwritten signature in black ink, appearing to read 'T. B. Hudson', written over a horizontal line.

**T. B. Hudson**  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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.*

**For MGB Administrative Use Only**

<i>Decision No.1765</i>		<i>Roll No.072138506</i>		
<u>Subject</u>	<u>Type</u>	<u>Sub- type</u>	<u>Issue</u>	<u>Sub- issue</u>
CARB	Retail	Stand alone	Income Approach	Land Value Only