

**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:

Glenmore Leasehold Holdings 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: 120022702

LOCATION ADDRESS: 3411 Glenmore TR SE

HEARING NUMBER: 63503

ASSESSMENT: \$2,070,000

This complaint was heard on 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:

- *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 5.29 acre parcel located in the centre median of Glenmore TR SE, between Ogden RD SE, and Barlow TR SE. The parcel is leased to the assessed party by the City of Calgary, and improved by the assessed party in 1999 with four (4) free standing commercial buildings that include a total of 32,665 square feet of assessable space. The subject property has been assessed based on the depreciated cost of the improvements, plus land value. The assessment includes a land value component calculated @\$525,000 per acre adjusted by +5% for corner lot influence, and -45% for significant development restriction, yielding a total of \$1,527,488. The depreciated cost of the improvements is based on the Marshall & Swift Valuation Service for July 2010, and totals \$552,330. Therefore, the current assessed value of the subject property totals to \$2,079,817, rounded to \$2,070,000.

Background:

The subject property is a Leasehold Estate. The City of Calgary, leased the unimproved parcel on May 1, 1999, to Glenmore Leasehold Holdings Ltd. for a term of 15 years, with two 5 year options to renew. The City of Calgary has now confirmed that the lease will not be extended beyond April 30, 2014, which marks the end of the initial 15 year term of the lease.

Glenmore Leasehold Holdings Ltd. owns the physical improvements on the subject parcel, and the right to receive future benefits up to the expiry date of the land lease with the City of Calgary. The subject property is assessed based on Fee Simple Estate, as is required by the legislation and regulations governing the assessment of typical retail property in Alberta. However, because the assessed party in this case does not own the land, some reduction to the full fee simple estate value of the subject property for assessment purposes has been ordered by property assessment tribunals beginning in the 2006 assessment year.

Issues:

The Complainant identified the assessment amount as the reason for the complaint. The land lease will expire on April 30, 2014; 3 years and 10 months from the valuation date of July, 2010. The lease terms require that all of the improvements must be removed from the leased land on or before the lease expiry date. In addition, the lessee must satisfy the city of Calgary that the property is free of contamination by way of a Phase II Environmental Report.

The Complainant further argued that the assessment should be prepared based on the income approach to value, with the capacity to capture risk through the capitalization rate. The land lease payments should also be deducted from potential gross income (PGI), in determining net operating income (NOI) for the subject property.

Complainant's Requested Value: \$1,270,000 (rounded). Note this value was revised by the Complainant at the hearing using net operating income (NOI), based on typical rent rates, less the cost of the land lease, and capitalized at 31.94%. The original request of \$850,000, was based on the actual rent rates for the subject property.

Board's Finding on Each Matter or Issue:

The Board finds that the income approach to value is appropriate to develop a reasonable market value estimate for assessment purposes for the subject property.

The evidence of both parties indicated that property assessment appeal/complaint tribunals since 2006, and including 2010, have adopted the income approach to value method, coupled with an aggressive investment recovery capitalization rate, to arrive at market value for the subject property and other properties with similar characteristics in Calgary.

The substantial increased risk of ownership inherent in the terms of the land lease must be recognized if the assessment is to reflect a reasonable estimate of market value for the subject property. The Complainant argued, and the Board finds, that the depreciated cost approach, plus land value used by the Respondent to prepare the current assessment fails to adequately account for this level of risk.

For the 2011 assessment, the Complainant agreed that the typical NOI calculated by the Respondent (\$454,164), should be used rather than the actual NOI (\$327,688), included in their disclosure. As previously noted, the Complainant suggested that the land lease payments should be deducted to arrive at NOI. However, the disclosure of the Complainant with respect to the Direct Capitalization Straight Line Property Investment Recovery Analysis, used to calculate the investment recovery capitalization rate of 31.94%, does not allow for this deduction. The rate was not disputed by the Respondent, and was therefore used to calculate the revised assessment.

Board's Decision: The assessment is reduced to \$1,420,000 (rounded), based on NOI of \$454,164, capitalized at 31.94%.

DATED AT THE CITY OF CALGARY THIS 8th DAY OF September 2011.

A handwritten signature in black ink, appearing to read 'T.B. Hudson', with a long horizontal flourish extending to the right.

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 Disclosure Appendix
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. 1842</i>		<i>Roll No. 120022702</i>		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Stand alone 3 blgs. on parcel	Income approach	Land lease/ Cap Rate