

**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(4), Revised Statutes of Alberta 2000 (the *Act*).

between:

**839621 ALBERTA LTD., COMPLAINANT,
as represented by COLLIERS INTERNATIONAL REALTY ADVISORS INC.**

and

The City Of Calgary, RESPONDENT

before:

***T. Helgeson, PRESIDING OFFICER
H. Ang, MEMBER
E. Bruton, 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 2012 Assessment Roll as follows:

ROLL NUMBER: 076051408

LOCATION ADDRESS: 3517 17th Avenue SE

HEARING NUMBER: 65569

ASSESSMENT: \$1,210,000

This complaint was heard on Tuesday, the 25th of September, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *C. Yee*

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

[1] No procedural or jurisdictional matters were brought to the attention of the Board.

Property Description:

[2] The subject property is a two storey building located at 3517 17th Avenue SE in the community of Forest Lawn. The area of the site is 7,665 sq. ft., and the building area is 12,884 sq. ft. The building was constructed in 1972, and has been given a quality rating of "C-". There is both office and retail space in the building. The subject property is assessed based on the income approach to valuation.

Issue:

[3] Does the subject property suffer from chronic vacancy?

Complainant's Requested Value: \$785,000

Summary of the Complainant's Submission

[4] The only issue before the Board is vacancy. The vacancy problem is not the fault of the owner, but rather the undesirable location of the property. Tenants don't want to rent space in the subject property. In 2009, vacancy in the subject property was 45%. In 2010, it was 25%, and in 2011, 58%, for a three year average of 43%.

[5] There is a lot of crime in Forest Lawn, and that has a chilling effect on business. A considerable amount of money has been spent on building upkeep and improvement. Space on the second floor is the problem; most customers are the "walk through the door" type.

[6] The Respondent previously recognized chronic vacancy, but no longer. We are requesting that the 10% vacancy allowance be increased to 25% for all floor space in the building. That will result in an assessment of \$785,000.

Summary of the Respondent's Submission:

[7] The typical vacancy rate for assessment purposes in Forest Lawn is 10%. Nevertheless, other properties in the area show no vacancy whatsoever. We have four comparables in the vicinity of the subject property, i.e., 3703 17th Avenue SE, 3501 17th Avenue SE, 2002 36th Street SE, and 1814 36th Street SE. One of the comparables has a quality rating of "C-", just like the subject property. The others have quality ratings of "C", "C+" and "B+". None of these comparables has vacant space.

[8] Vacancy is a symptom of an underlying problem. If there is a tangible cause for the vacancy, an adjustment should be applied. Where there is no plausible explanation for the vacancy, or any evidence that the subject property is truly unique, i.e., there is no other property similar to the subject property, the subject should not receive any adjustment. This is so because the assessment must be in accordance with s. 2(c), the *Matters Relating to Assessment and Taxation Regulation* ("MRAT"), which provides as follows:

2. An assessment of property based on market value

(c) must reflect typical market conditions for properties similar to that property.

The assessment of the subject property is correct, fair and equitable, and supported by the evidence. We respectfully request that the Board confirm the assessment.

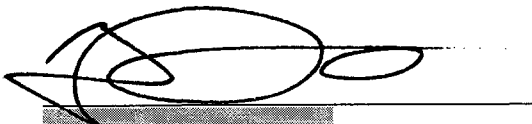
Board's Findings in Respect of Each Matter or Issue:

[9] Two of the Respondent's comparables, 1814 36th Street SE and 2002 36th Street SE are 100% occupied by a single tenant. Furthermore, no photographs of the comparables were put in evidence, and it is not known whether the Respondent's comparables are one storey buildings, or two storey. The similarity of the Respondent's comparables to the subject property is tenuous at best. The Board finds that the office space of the subject property suffers from a chronic, atypical vacancy of 25%.

The Board's Decision:

[10] The Board increases the vacancy rate for the office space to 25%, and confirms the vacancy rate for all other space in the building at 10%. Accordingly, the assessment is reduced to \$1,050,000.

DATED AT THE CITY OF CALGARY THIS 27th DAY OF November 2012.



Presiding Officer

Exhibits**C-1, Complainant's Evidence Submission.****R-1, Respondent's Assessment Brief**

<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Office/Retail	Strip Plaza	Vacancy	Equity Comparables

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.*