

**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:

Leisure Tech Bingo Inc. (Big Red Holdings Alberta LTD.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

P Petry, PRESIDING OFFICER

D Julien, MEMBER

J Pratt, 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:	156162703
LOCATION ADDRESS:	15220 Shaw Road S.E.
HEARING NUMBER:	62256
ASSESSMENT:	\$3,730,000

This complaint was heard on the 26th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant and the Complainant's Agent:

- Mr. A Izard

Appeared on behalf of the Respondent:

- Mr. R Farkas

Property Description:

The subject property is a 16,750 sq. ft. retail building with 2,561 sq. ft. of mezzanine space and is situated on 43,272 sq. ft. of land. The subject building was constructed in 1993 and currently is occupied by Rocky Mountain Honda. The subject property fronts on to MacLeod Trail but access is off Shaw Road which terminates at the north front boundary of the property. There is also access from the lane running between Shaw Road and 153 Avenue S.E. This property has been assessed based on the capitalized income approach to value.

Issues:

- 1) Does the nature of access to the subject property have a quantifiable negative impact on the value of the subject property?
- 2) What is a correct and equitable lease rate for the subject?

Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB) on March 7, 2011. The only issues however, that the parties sought to have the Composite Assessment Review Board (CARB) address in the hearing on August 26, 2011 are those referred to above, therefore the CARB has not addressed any of the other matters or issues initially raised by the Complainant.

Complainant's Requested Value:

Based on the Complainant's recommended income approach the requested assessment for the subject property is \$2,640,000 based on a rental rate of \$12 per sq. ft. or \$2,860,000 based on a rental rate of \$13 per sq. ft.

Board's Decision in Respect of The Matter or Issue:

- 1) The CARB decision is that the subject property is well located along Macleod Trail and that access has not been shown to negatively impact the property's market value.
- 2) The CARB decision is that the rental rate of \$17 per sq. ft. applied in reaching the assessment of the subject property is correct fair, and equitable

Summary of the Party's Positions

The Complainant argues that the Respondent has incorrectly classed the subject building as a junior big box "B+" building at a rental rate of \$17 per sq. ft. while other comparable buildings are classed as "C" or "C+" buildings which are typically assessed using a rental rate of \$12 per sq. ft. The subject assessment has increased by 59% for 2011, however the market in Calgary has not experienced anything close to that level of increase and it should be obvious that there is a significant error from a market perspective and an equity perspective.

The Complainant brought forward maps and aerial photographs to show that the subject is not accessible from MacLeod Trail and must be accessed from Shaw Road or from the lane way behind the building. The Complainant argues that the Respondent has compared the subject to properties with no access issues and in better over all locations in power centres or with direct access from MacLeod Trail. The Complainant referred the Board to lease information and equity data which had been used by the Respondent in a different case to show that comparable properties are assessed at the rate of \$12 per sq. ft. and have leases within that range as well. Co-op Home Health Care at 9309 MacLeod Trail S.W. was suggested as being the best example. In this case the property has direct access off of MacLeod Trail and the Respondent has a 2008 lease rate of \$13 per sq. ft. and an assessed rental rate of \$12 per sq. ft. The Complainant also submitted four tables showing assessment rates and lease rates for comparable freestanding buildings. All were assessed at the \$12 rate and their lease rates ranged from \$14.65 per sq. ft. to \$10.50 per sq. ft.

Based on the lease rates for comparable properties and the Respondent's typical rental rate of \$12 per sq. ft. for these properties the Complainant offered two options for the Board's consideration. One based on an equitable application of the \$12 rental rate, the assessment would be \$2,640,000 or if the Board placed more weight on the lease data, a rate of \$13 per sq. ft. would produce an assessment of \$2,860,000.

The Respondent argued that lease rates are similar for "A" and "B" class junior big box stores whether they are located in shopping centres or are freestanding buildings with preferred locations such as the subject. The subject is located along MacLeod Trail with excellent exposure and can be accessed from both the lane and parking lot off of 153 Avenue S.E or from Shaw Road. Most properties along MacLeod Trail do not have direct access from MacLeod Trail and there is no evidence that access has an impact on value in this case.

The Respondent indicated that for the 2011 assessments of junior big box properties the "A" and "B" classes have both been assessed using a rental rate of \$17 per sq. ft. and the "C" class

has been assessed using a \$12 per sq. ft. rate. The Respondent presented a chart showing over sixty comparable junior big box stores ranging from 14,001 sq. ft. to 50,000 sq. ft. all assessed using the rental rate of \$17 per sq. ft. The Respondent also provide a chart showing twenty eight lease rates for class "A" and "B" junior big box stores with a mean rate of \$18.26 per sq. ft. and median rate of \$17.15 per sq. ft.

The Respondent also provide evidence to show that permits in the amount of \$325,000 for improvements to the subject property were issued in 2010 and argued that extensive renovations have been completed. Further the rent roll for the subject property shows that Rocky Mountain Honda signed a lease for the subject property in March 2009 at a rate of \$20.20 per sq. ft., well above the assessed level of \$17 per sq. ft. Based on this evidence the Respondent requested the CARB to confirm the assessment at \$3,730,000.

Findings and Reasons for the Board's Decision:

The CARB considered the question of access with respect to the subject property and in our opinion first time visitors to the location may experience some difficulty with access. This however, may be fully offset by the excellent exposure along MacLeod Trail. In any case the Board had insufficient evidence to determine the impact access may have on the property's market value. The current lease rate of \$20.20 per sq. ft. seems to belie any significant consideration respecting access issues by the current tenant. The CARB therefore finds that the possible impact on value because of difficult access has not been shown in this case.

With respect to the issue of rental rate the CARB found that both parties provided some information supporting their respective positions but that this information was inconclusive. Given the location of the subject and fact that it has recently undergone considerable renovations the CARB does not see any reason that the subject is not comparable to other class "A" or "B" junior big box buildings. The Board found the evidence respecting the comparability of the subject to non-freestanding junior big box stores to be inconclusive as well. The Board may have been swayed by the comparison of the subject to the Co-op Health Care property, however the Board found that the improvement was over twice the size of the subject and the relative condition of this building to the subject was unknown.

The CARB believes that the current lease rate for the subject at \$20.20 supports the lease rate of \$17 applied by the Assessor and in general also supports that this rate is equitable with other properties assessed at the same rate.

Summary

Based on a careful review of all of the evidence and the foregoing reasons, the CARB has concluded that there is no proven impact on value related to access and that the rental rate of \$17 per sq. ft. is correct and equitable. The assessment of \$3,730,000 is therefore confirmed.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 13th DAY OF SEPTEMBER 2011.



Presiding Officer
Paul G. Petry

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant's Rebuttal
2. R3	Respondent Disclosure

An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:

470(1) 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.

470(2) 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).*

470(3) *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*