

**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

Maddalena Lavorato, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER

J. Massey, MEMBER

D. Cochrane, 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:	022065304
LOCATION ADDRESS:	1101 48 Ave. NW
HEARING NUMBER:	61264
ASSESSMENT:	\$851,000

This complaint was heard on September 6, 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:

- *Mrs. Mirella Milos, Mr. Nick Lavorato, Mrs. Maddalena Lavorato*

Appeared on behalf of the Respondent:

- *Mr. Garry Good, City of Calgary Assessment Business Unit*

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

There were no procedural or jurisdictional matters.

Property Description:

The property is assessed as 0.291 acres of commercial (C-N2) land at 1101 48 Ave. NW. A three bay strip centre is situated on the land. One bay has front access plus rear access from the back alley and two have only front access due to the increasing slope of the property on the side and back. This is a corner lot with two city-owned accesses, one level and one steep. Current assessed value is \$851,000.

Issues:

The Matter for Complaint was the assessment is too high. The issue is that the cost approach was applied in the assessment and the applicant believes the income approach shows a more accurate value.

Complainant's Requested Value: The complainant's son, Mr. Nick Lavorato, on behalf of the Complainant, stated that an assessment of \$650,000 to \$750,000 would be appropriate.

Board's Reasoning and Decision in Respect of Each Matter or Issue:

Mrs. Mirella Milos (daughter), on behalf of Mrs. Maddalena Lavorato, stated that assessment of this property should not be based on land value, but on income. She said the strip centre has three businesses which change frequently. The grocery store has changed hands three times in five years. There is a school nearby but the students are not allowed to go to the strip centre. She argued four points:

1. The property was bought 35 years ago as an income property.
2. The location and traffic accessibility of the property is not comparable to the comparable properties that City of Calgary Assessors told her were used in calculating the mass evaluation. (The complainant presented the addresses and descriptions of these properties, with no assessed values attached. C-1, p. 3)
3. The location of the property, and traffic accessibility are factors in the income potential now and in the future, as well as for future development.
4. The topography of the property limits the development potential.

The Complainant also stated that the property was being assessed at land value and should be assessed at income value as this property is different from the other properties City of Calgary had listed when the Complainant phoned.

Mrs. Milos also reported that there is a sign on the way to their property which states that there is no access to 14th street that reduces traffic past their location, and that there is a bus trap and turnaround which divides the community and reduces accessibility to their location. Both of these limitations have been put in place after the property was purchased and she does not know if the City has taken this into account for their assessments.

The Complainant said the 2010 assessment was \$619,000 and the current one is \$851,000. She believes it is unlikely they would be able to sell the property for \$851,000.

The Respondent, represented by Mr. Garry Good, showed two assessment processes: one was an income approach valuation which showed a net operating income of \$55,133 and a value of \$735,000 (R-1, p.21 and 22); the second was a cost approach valuation which valued the land at \$64 per square foot for the first 20,000 square feet and \$7 per square foot for the remainder. The second approach was used for the assessment.

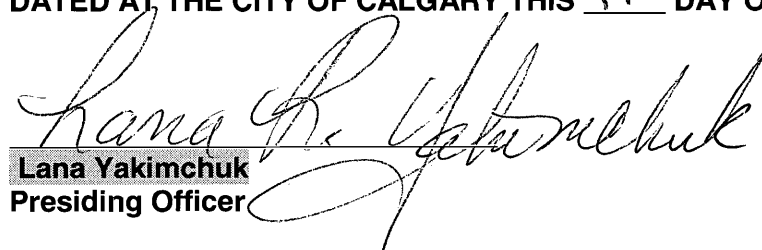
The City of Calgary did not show a list of comparable assessments or sales to support its assessment. The land was assessed at the same rate as CN 1 and 2 properties throughout the city.

The Board found that the property was exceptional because its location limits its potential to attract customers and tenants. It would be appropriate to value this property based on the income approach.

Board's Decision:

The assessment is revised to \$735,000.

DATED AT THE CITY OF CALGARY THIS 19th DAY OF SEPTEMBER 2011.



Lana Yakimchuk
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.*