

**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:

***Indgion Holding Ltd. (as represented by Assessment Advisory Group Inc.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***D. Trueman, PRESIDING OFFICER
D. Cochrane, MEMBER
J Massey, 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: 016209009

LOCATION ADDRESS: 28 Crowfoot CI NW

HEARING NUMBER: 62600

ASSESSMENT: \$2,840,000

This complaint was heard on 9th day of September, 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:

- *Darrell MacRae, Troy Howell*

Appeared on behalf of the Respondent:

- *Scott Powell*

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

The parties advised the panel that there were no procedural or jurisdictional matters prior to the commencement of the hearing.

Property Description:

The subject property is a single tenant (Swiss Chalet) identified for assessment purposes as a retail shopping center/power (quality rating B) containing 6,940 ft.², constructed in 1988, on a land base of 51,453 ft.² (1.18 acre) in the Arbour Lake District in northwest Calgary

Issues:

Does the condition of the subject property warrant a reduction to the "typical" rental rate applied by the city assessor in his calculation for a market value assessment?.

Complainant's Requested Value: \$2,200,000

Complainant position

The complainant testified that the subject property has experienced a great many leasing challenges due to its physical condition and neighbourhood circumstances such as traffic impediments imposed by construction of the new northwest LRT. He said further that commuters were creating a "cheater parking" situation on his property that the City were failing to police. The complainant testified to the Board that five different tenants had occupied the subject premises in the most recent seven years, with the franchisee Swiss Chalet taking the property back and suggesting its closure. The present operator of the restaurant was occupying the premises on a month-to-month basis, refusing to sign a long-term lease and paying \$28 per Sq. foot per year. In support of a more appropriate estimate of market value the complainant provided three comparable sales which suggested a better estimate of market value of \$336 a square foot as compared to the \$409 a square foot assessment amount. He also provided a chart of sales of warehouse buildings from which he suggested an adjustment amount to the assessment could be determined.

Respondent position

The respondent testified that he had assessed the subject property in a fashion similar to power centers throughout the city and had used a rate of \$32 a square foot rent and a capitalization rate of 7.25%. He said that his legislated responsibility required him to view the property as if it were in the hands of a typical owner and tenant who would have been able to overcome the physical and economic obsolescence that the present owner was complaining about. The respondent challenged the photographs of the subject property, supplied in the complainant disclosure documents, saying that they were illegible and it was therefore impossible to determine the condition of the subject property from this source. He further challenged the comparable sales produced by the complainant saying that they were generally non-arm's-length sales and otherwise sufficiently different as to not be considered comparable. The respondent offered that the adjustment process supported by the complainant's warehouse sales was not helpful and further challenged the complainant's ability to analyze this information. The respondent suggested that the complainant had not provided sufficient evidence to challenge the assessment or otherwise meet his burden of proof.

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

The Board firstly noted that both parties had presented Assessment Review Board decisions supporting their respective positions however, there was not one of these decisions that were directly applicable. The Board further noted that, at hearing, the complainant supplied original photographs of the subject property depicting its condition and that the respondent did not disagree with this production. As well, the respondent did not apply to the Board to consider whether or not the complainant had met his burden of proof as a separate issue. Perhaps most importantly the Board noted that the respondent had not supplied market evidence of any kind that would support his selected rate of \$32 a square foot which was an important input in his assessed value conclusion. The Board agreed with the respondent that the complainant comparables, and adjustment process, offered little support for his proposed new assessment. However, the Board did accept the complainant testimony that the subject property demonstrated impaired market acceptance. The Board preferred the evidence of the complainant that \$28 a square foot was an appropriate rental rate applicable to the subject property and calculated the reduced assessment below accordingly.

Board's Decision:

The assessment is reduced to \$2,480,000.

DATED AT THE CITY OF CALGARY THIS 27th DAY OF SEPTEMBER 2011.


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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand Alone	Income Approach	Net Market Rent/ Lease rate