

**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:**

***SCOTT'S TRUSTEE CORP (as represented by Linnell Taylor Assessment Strategies),  
COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***R. Glenn, PRESIDING OFFICER  
A Wong, MEMBER  
E. Reuther, 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: 028291201**

**LOCATION ADDRESS: 5335 FALSBRIDGE GATE NE**

**HEARING NUMBER: 64105**

**ASSESSMENT: \$1,500,000**

This complaint was heard on the 19th day of September, 2011 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, located in Calgary, Alberta, in Boardroom 9.

Appeared on behalf of the Complainant: Joel Mayer ( Agent )

Appeared on behalf of the Respondent: Shelly Turner ( Assessor )

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

No issues of procedure or jurisdiction were raised.

**Property Description:**

The subject is a free-standing single storey fast food retail property, comprising 2859 square feet , built in 1988, located in the Falconridge area of north east Calgary.

**Issues:**

Whether the subject building is properly assessed in light of queries regarding the Income Approach to Value vs. the Highest and Best Use Approach.

**Complainant's Requested Value:**

\$1,030,000

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

The following decision is very similar to CARB decision # 2304-2011-P, in that both the materials and the arguments presented were very similar.

The Complainant argues simply that an Income Approach using market based rates, ratios and coefficients, including some business assessment rents, supports a lower assessment for the subject property. The basis for their complaint was that the Respondent had valued the subject property as only a vacant land site based on market value..

The Complainant argues that the subject must be recognized as an improved property with a fully functioning restaurant on-site, and further, that any suggestion of re-development is quite premature, and in any event, certainly not imminent. They carry on to argue that the subject is encumbered by a lease, and therefore, any re-development at this time would not be legally permissible.

The Complainant also presents market rent comparables, and a pro forma calculation to bolster

their Income Approach argument. The result of the pro forma calculation supports their requested value.

They also argue that the subject building has a projected 60 year lifespan, and so, at present, the building still has more than 30 years to go in its normal operational lifespan. The Complainant provided a number of comparables with Assessment Requests For Information and other rental information.

To support his argument for a lower assessment using the Income Approach, the Complainant provided five comparables of fast food convenience stores. Three of these are free-standing, showing rents between \$25 and \$29/SF and two are end-cap Commercial Retail Unit's, supporting a market rent of \$30/SF.

A vacancy allowance of 7% was applied by analyzing both the City's Assessment Department NE Retail Vacancy Rate of 7.25%, and the CBRE Marketview Calgary Retail 02/2010 East Zone Vacancy Study

Non Recoverables were accepted at 1 % by using the City's Assessment Department figures.

Finally, the Capitalization Rate of 7.5 % was adopted by reviewing the City's Cap Rate at 7.5% an Colliers International Canada Cap Rate report for strip malls that showed a cap rate range of 7.25 to 8 %. The Complainant decided to use a rate of 7.50% due to the subject's average condition, the Falconridge location, and the age of 22 years.

The Respondent argues that they have not performed a Highest and Best Use study on the subject property, but state that what they are really looking for is market value. In other words, the real question to be answered is: what would the subject property likely sell for on the appropriate valuation day, being July 1<sup>st</sup>, 2010?

The Respondent goes on to argue that the Complainant called no credible evidence to actually demonstrate that the subject really is encumbered by a lease. The Respondent did provide a number of relevant comparable properties.

The issue here is ultimately market value. The Board finds that the Complainant has failed to show that the Respondent's methodology did not represent proper market value. If the subject assessment is not shown to be incorrect, it must be confirmed.

Accordingly, the subject assessment is herewith confirmed in the amount of \$1,500,000.

**Board's Decision:**

The subject assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF OCTOBER, 2011.

  
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R. Glenn  
Presiding Officer

**APPENDIX "A"**

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

<b>NO.</b>	<b>ITEM</b>
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 MGB Administrative Use Only*

Decision No. 2303-2011-P      Roll No.028291201				
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Stand Alone	Highest and Best Use	Net Market Value