

**CALGARY
COMPOSITE 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:

1186920 Alberta Ltd. (as represented by Assessment Advisory Group),

COMPLAINANT

And

The City Of Calgary, RESPONDENT

Before:

***D. H. Marchand, PRESIDING OFFICER
D. Cochrane, MEMBER
D. Julien, 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:

LOCATION ADDRESS: 2650 – 36 Street SE

LEGAL DESCRIPTION: Plan 1231 JK; Blk 4; 13 – Multiple Legal

HEARING NUMBER: 64835

ROLL NUMBER: 075013300

ASSESSMENT: 1,560,000

This complaint was heard on 28th day of September, 2011 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:

- *K. Gartner*

Procedural or Jurisdictional Matters:

No preliminary matters were raised by the Parties. Both Parties swore an oath. No objection was raised as to the composition of the CARB panel.

After a review of the “Section 5 - reasons for the complaint” filed the Complainant advised that only reason the assessment shown on the assessment notice is incorrect is that the vacancy rate applied within the income approach method used in the preparation of the assessment.

Property Description and Background :

- The subject is identified with a sub-property use code CMO210 – Retail Store - Strip within the Forest Lawn Community.
- The land use designation is Commercial – neighbourhood 2.
- The parcel has a site area consisting of 24,701 square feet. It is improved with a 1979 built strip retail development with 11,885 square feet of rentable area. The space has been identified as “C” quality.

Issue:

Is the current actual vacancy an indication that the subject has an chronic vacancy condition?

Legislation:

The Municipal Government Act, R.S.A. 2000, c. M-26

1(1) In this Act,

- (n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

289(2) Each assessment must reflect

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and
- (b) the valuation and other standards set out in the regulations for that property.

467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.

MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION (AR 220/2004)

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Party Positions:

The Complainant submits that by their analysis the subject's location has been the cause of consistent turnover and thus chronic vacancy has existed for more than three years. The Complainant provided a rent roll of the subject as of the spring 2011 wherein the actual vacancy was computed to be 13%.

The Complainant recalculated the assessment using the same parameters as the Municipality except a vacancy allowance of 12% versus the Municipality's use of 7.75%. This results in an assessment request in the amount of **\$1,440,000**.

The Respondent provided to the CARB the property detail reports and the Assessment Request for Information (ARFI's) for the period 2009 to 2011 to show the vacancy history of the subject. The typical vacancy allowance used as a parameter within the income approach model for the subject is 7.75%. The Respondent contends that no evidence of a "chronic vacancy characteristic" was presented to the CARB. The CARB was advised that at least three years data showing sustained atypical vacancy is the history the City is expecting prior to applying an allowance over and above the typical policy. There is no such history for the subject and the Respondent requested confirmation of the assessment.

Board's Decision:

The evidence provided to the CARB is insufficient to show that the subject is experiencing an atypical amount of vacancy over a sustained period of time. The 2009 and 2010 ARFI's show no vacancy for the subject. The assessment must be based on the typical market conditions for properties similar to that property.

The assessment is confirmed at **\$1,560,000**.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF OCTOBER 2011.


D. H. Marchand

Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant's Disclosure of Evidence package.
2. R1	Respondent's Assessment Brief.

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. 2479/2011-P				
Roll No. 075013300 Calgary DHM				
<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Stand alone	Income approach	Vacancy rate