

**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:

398342 Alberta Ltd. (as represented by A. Cheng), 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: 3401 Spruce DR SW

LEGAL DESCRIPTION: Plan 2566 GQ; Block 11; 1 – Multiple Legal

HEARING NUMBER: 60560

ROLL NUMBER: 065033102

ASSESSMENT: 841,500

This complaint was heard on 27th 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:

- *A. Cheng and B. Boccaccio*

Appeared on behalf of the Respondent:

- *C. Yee*

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.

Property Description and Background :

- The subject parcel contains 12,523 sq ft of commercial retail land assessed on the basis of its land value only for the first time in 2011. In prior years the assessment was computed and the subject's properties capitalized income earning potential.
- The result was an assessment that increased from \$284,500 in 2010 to \$841,500 in 2011.
- The CARB requested a valuation calculation using the typical income data parameters; as if the current assessment was done on the income methodology. The amount concluded was \$258,000.
- The CARB also requested the valuation calculation and the typical income data parameters used in establishing the assessments of the three adjoining parcels.

The address, parcel size, leasable area, site coverage and the assessment of the three adjoining parcels are as follows:

Address	Parcel size	Leasable Area	Site Coverage	Assessment
Subject**	12,523	1,869	14.9%	841,500
#2 Spruce CE SW*	5,988	3,200	53.4%	570,000
#7 Spruce CE SW*	5,988	3,234	54.0%	576,000
#9 Spruce CE SW*	8,983	6,257	69.7%	943,000

* Assessment based on the capitalized income approach.

** Assessment based on a land only valuation using the direct comparison to other similarly zoned land.

Issues:

1. Does the subject have a corner location influence?
2. Does the assessment reflect the market value standard and is the assessment equitable with the adjoining property.

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 the subject is along Spruce Drive and that there no intersecting road in front of the property. There is a surface parking lot fronting the property..

The Complainant provided two vacant lands sales to indicate that the rate applied at \$64.00 per sq. ft. for the subject's land only valuation was excessive.

The first is at 4504A – 17th avenue SE which sold in May of 2010 for \$954,000. It contains 19,735 square feet of C-COR2 zoning and is assessed at \$897,500 or \$45.48 per sq. ft.

The second is at 4304 - 16th avenue NW which sold in May of 2009 for \$1,102,800. It contains

18,380 square feet of C-COR2 zoning and is assessed at \$1,190,000 or \$64.74 per sq. ft.

The Complainant also provided three assessment comparables with very similar assessments. Each has a similar parcel size with equivalent improvements; however each are located with main roads, lots of traffic, with high exposure. The opinion of Mr E Cohen (AACI) of Elford Appraisal (not in testimony), Environmental & Consulting Ltd. was cited that with these location were 50% superior to the subject.

The Complainant (the owner) is requesting an assessment that is one/half the current on the Complaint Form.

The Respondent submits under the heading **Land Valuation for Improved Properties** the following statement:

The City of Calgary has derived a land value as well as an improved value for all properties in its jurisdiction. When a improved property is of such an age, design or other influence that the property is incapable of producing a capitalized income value which exceeds the established land value the land value represents the market value of the property.

The Respondent advised that in 2011 the Municipality chose to assess the subject based commercial neighbourhood vacant land sales.

The Respondent produced seven commercial neighbourhood (C_N2) vacant land sales., one each from NE and SE quadrants, two from the SW quadrant, and the remaining three from the NW quadrant were submitted to the CARB, The seven parcels ranged from 12,985 to 116,000 square feet in size. The time adjusted sales per sq. ft. ranged from 68.73 to 11.69. From this data a table of rate was established wherein parcel under 20,000 square feet are to be assessed at \$64.00 per sq. ft.

The Respondent argues that the direct sales comparison methodology provides reasonable estimates of market value. The sale at 4528 Bow TR SW sold in August of 2008 with 12,985 square feet yields a time adjusted sales per sq. ft. of 68.73 per sq. ft which is the best indicator of the subject's value.

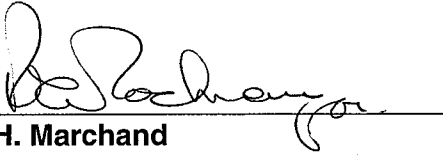
Board's Decision:

The CARB agrees with the Complainant that the subject is not on a corner location and that the subject's location as a C_N2 site is inferior to those that have sold. The sales that form the bases of the table used for all C-N2 assessments are superior. Their locations are adjacent to major roads giving them greater exposure to more traffic volume. This is an advantage in the auto repair business.

The CARB also gave consideration to the assessments of the three adjoining properties. The capitalized income approach applied to leasable space where the site coverage ratios are greater than 50%. The subject's capitalized income **can not** be expected to capture the entire value of the site when the site coverage is 15%. Based on the subject's leasable area and typical site coverage an assessment of \$350,000 with an additional land is reasonable. Based on the location, and the site coverage maps provided the CARB considered half the site at 60% of the typical rate is applicable.

The assessment is revised to **\$600,000.**

DATED AT THE CITY OF CALGARY THIS 2 DAY OF November 2011.

A handwritten signature in black ink, appearing to read 'D. H. Marchand', is written over a horizontal line.

D. H. Marchand
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1 2. R1	In two Parts - a Complaint Form Complainant Disclosure Respondent Disclosure c/w a print out of the 2011 Property Assessment Notices from 201378247, 042110502 and the Assessment Income Valuation parameters of the three adjoining properties: #2 Spruce CE SW, #7 Spruce CE SW, #9 Spruce CE SW

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

<i>Decision No. 2069/2011-P</i>		<i>Roll No. 065033102 (Calgary) DHM</i>		
<u><i>Appeal Type</i></u>	<u><i>Property Type</i></u>	<u><i>Sub Property Type</i></u>	<u><i>Issue</i></u>	<u><i>Sub - Issue</i></u>
CARB	Warehouse	Stand alone	Development land	Zoning