

**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

Tonko Realty Advisors Ltd (as represented by A. Izard, Altus), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER

H. Ang, 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:

ROLL NUMBER:	067091108
LOCATION ADDRESS:	839 – 10 Ave. SW
HEARING NUMBER:	63794
ASSESSMENT:	\$5,990,000

This complaint was heard on October 4, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 - 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *A. Izard, Altus*

Appeared on behalf of the Respondent:

- *L. Wong, 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 described on the Assessment Summary Report as 0.67 Acres, sub-property class CS2100. The improvement is a 10,891 square foot retail B quality building built in the early 1900s and extensively renovated recently.

Issues:

Is the property valued in excess of market value?
Is the correct approach used to value the property?

Complainant's Requested Value: \$2,620,000 or \$2,790,000

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

Mr. A. Izard, on behalf of Tonko Realty Advisors, presented a detailed argument, beginning with a physical description of the various businesses within the improvements on the subject property. These range from a variety of retail uses to a recently renovated restaurant.

The Complainant continued by arguing that the City's Highest and Best Use (HBU) approach to calculating an assessment, using Land Value, was not supported by a proper analysis of HBU. Such an analysis would include whether a new use would be physically possible, legally permissible, financially feasible, and maximally productive. He stated that the subject property had been recently improved and has a significant remaining productive life, and contended that it was maximally productive in the current economic market.

Mr. Izard stated that other retail properties had been purchased for their potential to convert from light industrial buildings and were currently being actively marketed and rented. These properties have an HBU based on their rental value. Therefore the subject building should be assessed using the Income Approach.

The Complainant also stated that there is no demand for redevelopment properties at this time, and that properties which are more ready for redevelopment than this one would be preferable,

if such a demand should be created. Further, the current owner has no plans and no new development permits for changing the current use of the property.

Mr. L. Wong, on behalf of the City of Calgary, presented a list of five recent sales of various sizes of CC-COR, CC-X and C-COR1 properties, including three from 2010, as comparables. Their adjusted sales values ranged from \$184/square foot to \$340/square foot. One property, (731 and 739 – 10 Ave. SW), was also used as a comparable by the Complainant. It had an adjusted sale price of \$195 per square foot, with a residual land rate of \$182 per square foot.

Mr. Wong argued that HBU value for this property could be found by assessing Land Only, as the existing improvements have a small footprint, with an improvement to land area ratio of less than 1. Larger footprint, multi-level buildings would have a ratio of greater than 1 and would be capable of producing more income.

The Board concluded that, although the improvements on the subject property were in part recently renovated, they were not producing an income which would reflect the value of a property in the beltline area of the city. It is legally permissible and physically possible to increase the economic productivity of this land. There was no proof provided that it is not financially feasible to do so, although Mr. Izard did say that there are only two redevelopments, both with exceptional circumstances, in progress in this area at this time.

Further, although many of the comparable property sales presented by the City do not seem to be directly comparable to the subject property due to size and zoning variations, the property on 731 and 739 – 10 Ave. SW was used as a comparable by both the Respondent and the Complainant. Given the dearth of vacant land sales in the area, the sale of this property was indicative of economic activity and was given most weight by the Board. Its sale value (\$195 per square foot) is similar to the current assessed value of the subject property.

Given this conclusion, the Board decided that the Land Value assessment was the most accurate value presented in these arguments and upholds the current assessment.

Board's Decision:

The Board confirms the current assessment of \$5,990,000.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF October 2011.


Presiding Officer

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

NO.	ITEM
1. C1 a, b	Complainant Disclosure
2. C2 a,b	HBU Land Only Sales Analysis
3. C3	HBU Land Only Valuation Approach
4. C4	HBU Economic Demand
5. R1	Respondent Disclosure
6. C6	Colour photographs

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.*

This information is for MGB Records Only

File Number	Roll Number	Subject Type	Issue	Detail	Sub-Detail
2486	067091108	CC – Mixed Use	HBU	Land Value	