

**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

Murlee Holdings Limited
(represented by Cobank Property Tax Services Inc) COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER
A. Blake, MEMBER
J. Pratt, 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:	113005300
LOCATION ADDRESS:	6825 11 St. SE
HEARING NUMBER:	60620
ASSESSMENT:	\$14,980,000

This complaint was heard on October 17, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 - 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *J. Cohen, Cobank Property Tax Services Inc.*

Appeared on behalf of the Respondent:

- *J. Ehler, City of Calgary Assessment Business Unit*

Jurisdictional and Procedural Matters:

The Respondent, Mr. Ehler, asked that it be noted that there was no summary attached to the Complainant's disclosure.

Upon further investigation, the Board found a *Summary of Salient Information* (C1a – Tab 2) which indicated the three lines of argument and the suggested values which were covered in further detail in the disclosure.

Property Description:

Leon's Home Furnishings Superstore, located on 6825 – 11 St. SE was assessed as 115,475 square feet of retail space.

Issues:

Is the entire area of the Leon's Home Furnishings Superstore retail space, or should it be assessed as separate retail and warehouse spaces?

Complainant's Requested Value: \$12,303,000 (Income Approach)
\$12,333,000 (Equity Comparables)

Board's Reasons for Decisions in Respect of Each Matter or Issue:

Mr. J. Cohen, on behalf of the Complainant, used photographs (C1a – Tab 4) and descriptions to demonstrate that Leon's Furniture is a store with 60,706 square feet of retail space and 55,271 square feet of warehouse space. He indicated that the warehouse space is used for more than short term storage, is never accessible to the public, and is set up for maximum storage efficiency. The retail space is showroom and customer-access space.

Further, he showed records dating from 1999 to 2009 (C1a,b – Tabs 7 to 12) indicating that the assessment had been corrected each year, either at the assessment, appeal board, or MGB level. Mr. Cohen said the reason for the change each year was that the differentiation between warehouse and retail space had been overlooked. In 2010 the taxes were not appealed as the property had been assessed differently and the assessment was substantially below the 2009 level.

Mr. Cohen provided comparable separate retail and warehouse equity assessments to produce

a corresponding rate for each portion of the Leon's building (C1b – Tab 14 to 16). He also used a Brick furniture store comparable for a market value assessment.

The Respondent, Mr. J. Ehler, on behalf of City of Calgary, demonstrated how the Income Approach value of the Leon's property was calculated, supported by a list of Big Box equity comparables (R1 – p.15). He indicated that the rates for these buildings were \$10.00 for the retail areas, with \$1.00 for non-retail mezzanines which may or may not be used as storage. Upon questioning he also informed the board that the basement storage rate was \$3.00 per square foot.

Mr. Ehler questioned the similarity to the subject of some of the comparable properties presented by Mr. Cohen. The Respondent also presented a number of CARB decisions which demonstrated that the rate of \$10.00 per square foot for big box stores is correct.

On behalf of the Complainant, Mr. Cohen asked the Respondent, Mr. Ehler, if a separate warehouse would be assessed retail rates, and Mr. Ehler said no. Mr. Cohen then reiterated that Leon's is two separate areas: a retail store and a warehouse. He stated that most big box stores have their central warehouses separate from the retail stores, and the retail stores have some storage on overhead racks as well as possibly some small temporary storage areas at their intakes. He said that customers have access to most of the big box building space.

Mr. Ehler had been unable to determine the reason for the 10 years of reduced assessments, so the Board accepted Mr. Cohen's evidence that the reductions were based on separating the two segments of the building.

The Board considered the evidence and determined that Leon's Home Furnishings Superstore is two separate spaces: 60,706 square feet of retail space and 55,271 square feet of warehouse space. The warehouse is used mainly as storage space, not as retail space.

Given that the City assessment had been based on the Income Approach, and that the Complainant's retail/warehouse comparables assessment and Income Approach assessment resulted in very similar values, the Board accepts the Income Approach value presented by the Complainant.

Board's Decision:

Assessment is reduced to \$12,303,000.

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



Lana Yakimchuk
Presiding Officer

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

NO.	ITEM
1. C1(a-d)	Complainant Disclosure
2. C2	Rebuttal Disclosure
3. C3	Photograph Package
4. 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.*

This information is for MGB Records Only

File Number	Roll Number	Subject Type	Issue	Detail	Sub-Detail
2522	113005300	CARB	Preliminary	Summary	
2522	113005300	CARB	Class	Big Box	Warehouse/Retail