

**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

Omega Developments Inc., COMPLAINANT

And

The City Of Calgary, RESPONDENT

Before

M. Chilibeck, PRESIDING OFFICER

B. Jerchel, MEMBER

R. Kodak, 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: 057236408

LOCATION ADDRESS: 110 – 13 AV NW

HEARING NUMBER: 62808

ASSESSMENT: \$3,150,000

This complaint was heard by the Composite Assessment Review Board on 27th day of October, 2011 in Boardroom 5 on Floor Number 4 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- C. von Stetten

Appeared on behalf of the Respondent:

- S. Poon

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

Neither party raised any objections to a member of the Board hearing the subject complaint.

There were no preliminary matters raised by either party.

Property Description:

The subject property is located in the community of Crescent Heights in market area 3 in the NW quadrant of The City of Calgary. It is a six storey high-rise multi-residential property constructed in 1978 with 27 residential rental units and commercial office space on the main floor. It is considered to be in fair quality.

Issues:

The Complainant identified the matter of an assessment amount on the Assessment Review Board Complaint (complaint form) and outlined several reasons for the complaint. The Board summarized the issue as follows:

1. The assessed value does not reflect the physical condition of the improvements and the noise and odour pollution generated by the adjacent properties.

Complainant's Requested Value:

\$3,150,000 per the complaint form.
\$2,300,000 per the evidence disclosure.

Board's Findings in Respect of Each Issue:

The subject property is assessed by the income method using a gross income multiplier (GIM). The building is considered to be in fair quality and an additional 10% reduction was granted to recognize the historical vacancy issue of the subject.

The Complainant supported the requested reduction by the capitalized net income method. The average apartment rental rates and vacancy rate in The City of Calgary in October, 2010, less actual expenses and a capitalization rate of 6.13% were used to determine the requested value of \$2,143,000 (rounded).

The Complainant argued that the subject building is plagued with historically higher than

average vacancies because of structural concerns, noise problems and traffic problems caused by a lack of loading zones and parking at the adjacent shopping centre which was constructed in 1997.

The Complainant alleged that the building's problems are the result of the construction of the adjacent shopping centre. Stress related fractures to the building walls, which began to surface recently on the top floors combined with the noisy roof-top mechanical units, unsightly storage of items on the roof-tops, noise and smell from the adjacent eating establishments, inadequate parking at the adjacent shopping centre and poor access to the subject property has resulted in greater than typical vacancy in the subject property for the past six years; from a high of 22.2% in 2009 to a low of 9.6% in 2007. The actual vacancy in 2010, the relevant assessment year, was 10.3%

In calculating the requested value for the subject property the Complainant deducted actual vacancy and actual operating and maintenance expenses from the effective gross potential income that was determined by using average rental rates as quoted in the Rental Market Report by the Calgary office of Canada Mortgage and Housing Corporation (CMHC). The Board was not persuaded by the complainant's calculations to reduce the assessment of subject property.

The Board finds that the Complainant's calculations are not consistent. It is inappropriate to mix typical factors with actual factors in the analysis of similar sale comparables and to determine the value of properties. In the subject case the Complainant used typical rental rates from CMHC and actual expenses of the subject property. It is an accepted principle that has been supported by Court and Board decisions, that there must be consistency between the analysis of comparables and the calculating of assessment values and further that there must be consistency within the valuation and analysis process itself in that rents and expenses should either be at typical rates or at actual rates. Also, the Board found a major flaw in the Complainant's valuation where no value was included for the commercial space on the ground floor that the Respondent valued at \$192,850. If this amount was added to the Complainant's valuation the revised valuation would be \$2,336,000 (rounded).

The Complainant did not provide a detailed breakdown of the building expenses nor any evidence as to the typical building expenses for high-rise multi-tenant properties. The Board has no way of knowing whether the subject's building expenses are atypical and if so by what amount. Also, a breakdown of the maintenance expenses was not provided. Without this breakdown and the associated details, the Board has no way of knowing whether any of the expense was for "one time events" or whether an expense is related to a building issue that has been rectified.

An appraisal of the subject property for \$2,300,000 with an effective date of November 2, 2009 was submitted in evidence with limited emphasis by the Complainant. The appraisal is to provide a market value estimate of the subject property and is to be used for estate purposes. The Board placed little weight on the appraisal. It does not identify any of the building or property issues/problems that were identified by the Complainant and the comparable adjustment grid is not comprehensible. The grid for four sale comparables shows an adjustment factor for market conditions (time) but does not show any factors for location, physical characteristics, economic characteristics or overall comparability even though it indicates differences in relation to the subject. Also, the Respondent drew the Board's attention to two of the appraisal sale comparables have been converted to apartment condominiums.

The Board is satisfied that the subject assessment is fair and reasonable. The Respondent has recognized that the subject property has building and property issues by considering the subject building to be in fair quality rather than average quality and granted an additional 10% vacancy allowance for a total allowance of 15%. As explained by the Respondent, fair building unit rental rates are less than average building unit rates and the typical vacancy allowance is 5%.

Board's Decision:

The Board confirms the assessment at \$3,150,000.

DATED AT THE CITY OF CALGARY THIS 15 DAY OF November 2011.



M. Chilibeck
Presiding Officer

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD

NO.	ITEM
1. C1	Complainant's Disclosure
2. R2	Respondent's Disclosure

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.*

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Decision No. 046-2825-2011-P			Roll No. 057236408	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Residential	High-Rise Apartment	Income Approach	Expenses