

## **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:**

***Lyanne Holdings Ltd. (as represented by Cushman & Wakefield Ltd.), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***W. Kipp, PRESIDING OFFICER***

***R. Kodak, 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 2013 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>579018300</b>
<b>LOCATION ADDRESS:</b>	<b>12 Applewood Drive SE, Calgary AB</b>
<b>FILE NUMBER:</b>	<b>71712</b>
<b>ASSESSMENT:</b>	<b>\$1,950,000</b>

This complaint was heard on the 2<sup>nd</sup> day of July, 2013 at the office of the Assessment Review Board in Boardroom 9 located on Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- *J. Goresht*

Appeared on behalf of the Respondent:

- *H. Argento, S. Paulin*

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

[1] There were no preliminary procedural or jurisdictional matters to be decided by the CARB.

**Property Description:**

[2] The property that is the subject of this assessment complaint is a strip shopping centre located at the southwest corner of the intersection of Applewood Drive and 68 Street SE. The 28,310 square foot commercial site is occupied by a strip shopping centre building with rentable area of 2,411 square feet plus a gas bar and convenience store. For the assessment of shopping centres with a gas bar, only 1 square foot of retail space is allocated to the gas bar occupancy, regardless of the actual area of the store or the amount of land occupied. The shopping centre, constructed in 1999, is rated as a class "B+" quality shopping centre.

[3] The 2013 assessment was prepared using an income approach to value. Retail units with less than 1,000 square feet were assigned a rental rate of \$22.00 per square foot while units with areas between 1,001 and 2,500 square feet had a rate of \$21.00 per square foot. The gas bar with convenience store had a rent rate of \$95,000 which was not based on any building size. A vacancy allowance of 8.0 percent was deducted as was a non-recoverable operating expense allowance of 1.0 percent. For operating costs on vacant space, a rate of \$8.00 per square foot was used. The resulting net operating income amount was capitalized at a capitalization rate of 6.75 percent to arrive at the \$1,950,000 assessment.

**Issues:**

[4] In the Assessment Review Board Complaint form, filed March 4, 2013, Section 4 – Complaint Information had check marks in nine of the ten boxes: for description of the property, assessment amount, assessment class, assessment sub-class, type of property, type of improvement, school support, whether the property is assessable and whether the property is exempt from taxation.

[5] In Section 5 – Reason(s) for Complaint, the Complainant stated that the assessment was incorrect or too high for a number of reasons.

[6] At the hearing, the Complainant pursued the following issues: the assessment is

incorrect or too high on the basis of equity with other similar properties because the assessment fails to recognize the isolated location of the property, the quality rating of the property and the appropriate rent rate to be applied to the gas bar.

**Complainant's Requested Value: \$1,068,786**

**Board's Decision:**

[7] The CARB confirms the 2013 assessment at \$1,950,000.

**Position of the Parties**

**Complainant's Position:**

[8] In support of the equity argument, the Complainant provided assessment data on six other properties and that data was compared to the subject. Three of those properties were strip shopping centres, two were neighbourhood/community shopping centres and one was a freestanding gas bar and convenience store. One of the strip centres was a "B+" quality, like the subject. Others were in the "A-", "B", "B-", "C" or "C+" quality classes. One of the strip centres had a gas bar while the other two did not.

[9] The Complainant used the assessment data for the properties to determine the assessment rate per square foot of building area. The subject's assessment is \$808.79 per square foot of building area (2,411 square feet). For the six comparables, the assessment rates range from a low of \$171.76 to a high of \$746.16 per square foot. This comparison shows that the subject property is over-assessed.

[10] The subject shopping centre serves a small market area. There is a large tract of undeveloped land across 68 Street from the subject and there is very little development to the south of 17 Avenue SE. Compared to other "B+" properties, the subject location is inferior. It is closer to "C+" quality properties.

[11] One of the comparables was a gas bar on 50 Avenue at 52 Street SE. That very large property (almost 2.5 acres) had a building that was similar in size (2,734 square feet) to the gas bar/convenience store in the subject centre. That gas bar property was assessed using a cost approach at only \$746.16 per square foot of building area.

[12] A northeast strip centre, at 826 – 68 Street NE is in the "A-" quality class and its assessment of \$306.36 per square foot of building area is significantly lower than the rate on the "B+" quality subject centre. This comparable does not have a gas bar tenant.

[13] At 1704 – 61 Street SE, the "B+" quality strip centre is assessed using lower rent rates (\$21.00 and \$20.00 per square foot) than the subject "B+" property which is at rents of \$22.00 and \$21.00 per square foot.

[14] The neighbourhood centre at 3330 – 17 Avenue SE is in the "B-" class. It has a gas bar and the rent applied for assessment purposes is only \$45,000 whereas the subject gas bar is added at a rent of \$95,000. There is also some "poor location office" space in this centre with a typical rent rate of only \$8.00 per square foot. This is another example of the inequity that exists

with respect to the subject assessment. The poorly located subject property does not have lower rent rates applied as it should.

[15] The strip centre at 6800 Memorial Drive NE is a "C+" quality property but it is shown on assessment records as having a "Limited/Restricted Access" influence. The inferior location of the subject property should warrant an adjustment for that poor access influence as well.

[16] When preparing the requested assessment, the Complainant removed the flat gas bar rent amount and replaced it with the application of a rental rate of \$14.00 per square foot applied to the 3,316 square foot floor area of the Mac's convenience store. The other tenant spaces were assigned rental rates of \$16.00 (658 square feet) and \$15.00 per square foot (1,752 square feet). No changes were made to vacancy, operating cost allowances or the capitalization rate.

### **Respondent's Position:**

[17] The Respondent explained how gas bars are assessed in Calgary. When part of a shopping centre, a gas bar with convenience store of more than 1,000 square feet is valued on the basis of a flat rental of \$95,000. No additional rent is charged to the floor area of the convenience store. If there is no convenience store, the flat rate drops to \$45,000. A table of rents in the Respondent's evidence showed market lease data from which the \$95,000 rate was derived.

[18] Where the predominant use of a property is for a gas bar, the assessment is prepared using a cost approach. The property at 50 Avenue and 52 Street SE that was used as a comparable by the Complainant is one of those properties. Other than a convenience store and a Subway sandwich shop, the only other use of the site is a gas bar and carwash. Freestanding gas bar properties such as this cannot be compared to strip shopping centres where there is a gas bar.

[19] The Respondent argued that two of the Complainant's other comparables were not comparable to the subject because they were neighbourhood shopping centres. Of the remaining three strip centres, only one (1704 – 61 Street SE) is a "B+" quality centre like the subject. In that centre, there are no rental units of less than 1,000 square feet. In the 1,001 – 2,500 square foot category, the rent is the same as in the subject at \$21.00 per square foot. Both the subject and this comparable have gas bars and the typical rental rate is consistent at \$95,000. In the 61 Street SE property, there is some "poor location" retail space that is assessed on the basis of a \$10.00 per square foot rent rate. The Respondent stated that this category refers to poorly located space within a shopping centre and not to the location of the centre itself.

[20] A copy of a July 2012 master rent roll for the subject property was included in the Respondent's evidence. The Respondent pointed out that the tenant with under 1,000 square feet of floor area had a lease commence in January 2010 at rents that escalate from \$19.00 to \$22.00 over the five year term. This actual rent supports the assessed rate of \$22.00 per square foot and shows that the Complainant's requested rent rate of \$16.00 per square foot is too low.

[21] The strip centre at 6800 Memorial Drive is a "C+" quality centre and that low classification is warranted by the rents that are being achieved. This shows that this property, like the subject is properly classified and one cannot be directly compared to the other. Also, with regard to this property, the "Limited/Restricted Access" influence is noted on the assessment summary but that influence has no impact on the application of the income approach that was used to assess that property. It would be a factor in the determination of

quality classification.

[22] Finally, the Respondent provided an equity chart showing that the subject strip centre was equitably assessed when compared to three other "B+" quality centres. Another chart shows that the \$95,000 gas bar rent rate is consistent in centres where there is a gas bar plus convenience store of more than 1,000 square feet as well.

**Board's Reasons for Decision:**

[23] The CARB confirms the subject assessment at \$1,950,000 for the following reasons.

[24] The Complainant has compared the subject property's assessment to assessments of other properties by reducing the assessment amounts to a rate per square foot of building area. This type of comparison is not useful because it can become distorted due to a) the presence or absence of a gas bar, b) if present, the type of gas bar, c) varying building sizes, and d) varying quality classifications. For example, the subject assessment indicates a very high rate because of its very small (2,411 square foot) shopping centre building and the presence of a gas bar with convenience store. The value of the gas bar determined by capitalization of its rent, when divided by the 2,411 square foot retail building produces a very high rate per square foot.


[25] In the Complainant's list of equity comparables, there was one "B+" quality strip centre and that centre had equitable rent rates applied to tenant units that could be directly compared to the subject.

[26] Other than argument, the Complainant presented no evidence to show that the claimed "isolated retail location" negatively impacted on achievable rents or market value. If location was a negative feature, that would likely manifest itself in vacant store units but the July 2012 rent roll shows that there was no vacancy in the property.

[27] The Respondent has explained the methodology regarding consideration of gas bars and has shown the CARB that the gas bar on the subject property is being treated in an equitable manner to gas bars on similar strip centre properties.

[28] The Complainant has not provided evidence to show the CARB that the subject strip centre should be placed into a lower quality classification. The CARB notes that the one relatively current lease in the subject centre supports the class "B+" rent rate applied by the Respondent in making the assessment.

DATED AT THE CITY OF CALGARY THIS 17<sup>th</sup> DAY OF July 2013.

  
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W. Kipp  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. 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.*

*For Internal Use*

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	RETAIL	STRIP PLAZA	INCOME APPROACH	NET MARKET RENT/LEASE RATES