

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:

Gerry Strongman Holdings Ltd. (Linnell Taylor Assessment Strategies), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Weleschuk, PRESIDING OFFICER

J. Massey, BOARD 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:

ROLL NUMBER:	175503622
LOCATION ADDRESS:	240 Crowfoot Cr. NW
FILE NUMBER:	72087
ASSESSMENT:	\$2,760,000

This complaint was heard on 9th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *D. Sheridan*

Appeared on behalf of the Respondent:

- *V. LaValley*

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

- [1] The Board noted that their file included a completed copy of the Assessment Review Board Complaint form. An Assessment Complaints Agent Authorization form in the file indicated that CVG Canadian Valuations Group Ltd. was the agent. Linnell Taylor Assessment Strategies apparently have an agreement with CVG Canadian Valuations Group Ltd. to represent some of their clients. In accordance with Section 51 of Matters Related to Assessment Complaints Regulation, the agent authorization must be in the form as prescribed in the Regulation. After a short recess, an Assessment Complaints Agent Authorization form naming Linnell Taylor Assessment Strategies as agent was presented to the Board and was included in the file. The hearing proceeded.
- [2] The Board proceeded to hear the complaint with only a provincial member and one local member, which under Section 458(2) of the Act provides for a quorum of the Composite Assessment Review Board. Neither party objected to the members of the Board, as introduced, hearing the evidence and making a decision regarding this assessment complaint. Neither party objected to the complaint being heard by a two member panel.
- [3] No preliminary issues were raised by either party.

Property Description:

- [4] The subject property is located at 240 Crowfoot Cr. NW, and is part of the larger Crowfoot power centre in the Arbour Lake District. The property is 0.35 acres in size, with one 4,658 square foot (SF) building leased by one tenant, and some parking area. The property fronts onto Crowfoot Crescent NW and has direct access to that roadway. The current assessment is \$2,760,000, using an Income Approach.

Issues:

- [5] What is the correct assessment of value? The Complainant argued that the rental rate used in the Income Approach assessment calculation is too high and offered an alternative rental rate.

Complainant's Requested Value: \$1,990,000

Board's Decision:

[6] The Board reduces the 2013 Assessment to \$2,410,000.

Legislative Authority:

[7] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that 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. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property as of the valuation date.

Issue 1: What is the correct assessment of value?

Complainant's Position:

- [8] The Complainant stated that the assessed rental rate of \$40.00/SF used in the Income Approach Valuation (page 12, Exhibit C1) is excessive and not representative of the actual market rental rate being achieved by the subject property.
- [9] The Complainant presented rental information that demonstrated that the property is currently leasing for \$29.00/SF, based on a September 1, 2010 lease (page 4 and 14, Exhibit C1). The other factors used in the Income Approach calculation used by the City were not in dispute. Based on the actual rental rate of \$29/SF, the Complainant calculated the requested assessment of \$1,990,000 (truncated) (page 5, Exhibit C1).
- [10] In rebuttal, the Complainant noted that the lease comparables presented by the Respondent for the CRU 2,501-6,000 SF size range (page 23, Exhibit R1) ranged from \$22 to \$43/SF, and argued that the requested rate of \$29/SF was reasonable given the range. The Complainant also noted that the subject lease, of \$29/SF beginning in September 2010 should have been included in the lease comparables presented by the Respondent, and that by including the subject lease the average of the data set is reduced by about \$1/SF.

Respondent's Position:

- [11] The Respondent stated that the subject is a commercial retail property located as part of a power centre, therefore the income approach is the most appropriate method to determine market value, using mass appraisal.
- [12] The Respondent presented summary tables showing how rental rates for the various CRU categories used in the Income Approach were derived (page 22-24, Exhibit R1), with specific attention to the CRU 2,501-6,000 SF category table on page 23, Exhibit R1. In this analysis, the City uses all the lease information from the Crowfoot power centre, and stratifies the data based on size of CRU space. Stand alone or pad sites occupied by restaurants or fast food restaurants have their own rental rate. There is no other criteria used to analyze the lease data, other than size of the space. The Respondent agreed that the subject lease should have been included in the table and did not know why it was not. The data presented on page 23, Exhibit R1 indicates a median rental rate of \$39.00/SF and average rental rate of \$35.40. Based on this analysis, the City used a rate of \$40/SF in the assessment calculation.
- [13] The Respondent presented a copy of CARB 1722/2011-P which addressed a similar request for an adjacent property, where the Complainant asked for the actual rental rate to be used in the Income Approach calculation. In the Decision, the Board did not accept the single comparable (the subject) lease presented as indicative of the market value. The Respondent argued that the same situation was presented to this Board by the Complainant.
- [14] The Complainant did not know why the City selected a rental rate of \$40/SF for the assessment calculation (page 9-10, Exhibit R1) when the median was \$39/SF.

Findings of the Board on this Issue:

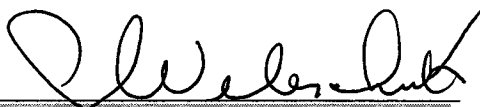
- [15] The Board finds that one comparable, the subject lease, is not a good indicator of market rent, especially given the information presented by the Respondent in their table for CRU 2,501-6,000 SF lease comparables on page 23, Exhibit R1.
- [16] The Board finds that the \$40/SF rental rate applied to the CRU 2,501-6,000 SF category in the Income Approach Valuation (page 9-10, Exhibit R1) is not supported by the evidence presented by the Respondent (page 23, Exhibit R1).

- [17] The Board was troubled by the lease analysis presented by the Respondent. Typically, if data is being stratified by size (presumably because size is a factor that affects rental rate), there should be a distinct difference in rental rates between size categories, with smaller CRU spaces leasing at much higher rates per square foot than larger CRU bays. This does not seem to be the case with this data. The median of the CRU 0-1,000 SF category is \$38.50/SF, the median of the CRU 1,001-2,500 SF category is \$38.93/SF, and the median of the CRU 2,501-6,000 SF category is \$39.00/SF. The Respondent could not explain why such an atypical relationship existed with this data, other than to opine that the Crowfoot power centre was one of the highest lease rate power centres in the City.
- [18] The Board considered the average rates for each of these CRU spaces, and found the following relationship. The average rental rate for CRU 0-1000 SF was \$36.25/SF, for CRU 1,001-1,500 SF was \$36.20/SF and for CRU 2,501-6,000 SF was \$35.40/SF without the subject lease and \$34.82/SF with the subject lease included.
- [19] Based on the average rental rate for the CRU 2,501-6,000 SF category, being \$35.40/SF without the subject lease and \$34.82/SF with the subject lease, the Board finds that the correct lease rate for this CRU category is \$35.00/SF. Applying this rate into the assessment calculation (page 5, Exhibit C1 or page 9-10, Exhibit R1) results in an assessed value of \$2,410,000.

Board's Reasons for Its Decision

- [20] The Board concluded that neither the rental rate of \$29/SF requested by the Complainant nor the \$40/SF rate used by the City for the CRU 2,501-6,000 SF category in its 2013 assessment calculation was supported by the evidence presented. Using the average of the lease comparables presented by the Respondent and including the subject lease information, the indicated rental rate for this category is \$35/SF. Using this rental rate in the assessment calculation results in an assessment of \$2,410,000. The Board reduces the 2013 assessment to \$2,410,000 for these reasons.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF August 2013.



Ivan Weleschuk
Presiding Officer

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

NO.	ITEM
1. R1	Respondent Disclosure
2. C1	Complainant Disclosure
3. R2	Respondent Rebuttal 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.*