



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: | 175503648 |
| LOCATION ADDRESS: | 250 Crowfoot Cr. NW |
| FILE NUMBER: | 72091 |
| ASSESSMENT: | \$4,650,000 |

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 250 Crowfoot Cr. NW, and is part of the larger Crowfoot power centre in the Arbour Lake District. The property is 0.57 acres in size, with one 8,141 square foot (SF) building demised into four bays, each with its own tenant. The property has direct access to Crowfoot Crescent NW, but is located behind a building that fronts onto Crowfoot Crescent NW, therefore the subject building does not have direct exposure to Crowfoot Crescent NW. The property backs onto John Laurie Blvd NW, but there is no access to this roadway from the subject. The current assessment is \$4,650,000, 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 for the CRU 0-1,000 SF, CRU 1,001-2,500 SF and 2,501-6,000 SF categories is too high.

Complainant's Requested Value: \$3,160,000

Board's Decision:

- [6] The Board reduces the 2013 Assessment to \$3,160,000.

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.

Issue 1: What is the correct assessment of value?**Complainant's Position:**

- [8] The Complainant stated that the assessed rental rate of \$38.00/SF for CRU 0-1000 SF, \$38.00/SF for CRU 1,001-2,500 SF, and \$39.00/SF for the CRU 2,501-6,000 SF category used in the Income Approach Valuation (page 12-13, Exhibit C1) is excessive and not representative of the actual market rate being achieved by the subject property.
- [9] The Complainant presented rental information for the subject property (page 4 and 14, Exhibit C1). The two most recent leases indicate that the rental rate for the CRU 1,001-2,500 SF category should be \$28.00/SF (lease beginning in January 2010 for a 1,015 SF space) and for the CRU 2,501-6,000 SF category should be \$25.00/SF (lease beginning May 2012 for a 4,454 SF space). The CRU rate of \$28.00/SF for 1,001-2,500 category is also applied to the CRU 0-1,000 SF category. Using these rental rates and applying all the other factors used by the City in its assessment calculation results in a requested assessment of \$3,160,000 (truncated) (page 5, Exhibit C1).

- [10] In rebuttal, the Complainant noted that the lease comparables presented by the Respondent for the various CRU categories (page 21-23, Exhibit R1) had a very wide range and suggested that the Respondent did not use all the lease comparables that existed in their analysis. Not using all the lease information available likely skewed the results. The Complainant did not present any evidence of leases that were not included other than the lease for a property located at 240 Crowfoot CR NW (CRU 2,501-6,000 SF) at \$29.00/SF.

Respondent's Position:

- [11] The Respondent stated that the subject is a commercial retail property located as part of the Crowfoot 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 21-23, 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 stratify the lease data, other than size of the rental unit. The Respondent agreed that the 240 Crowfoot CR NW lease should have been included in the CRU 2,501-6,000 SF category table and did not know why it was not. The Respondent was not aware of any other lease information that was not included in the analysis. Based on the median of the various CRU categories, the City used an assessed rate of \$38.00/SF for the 0-1,000 SF and 1,001-2,500 SF CRU categories and \$39.00/SF for the 2,501-6,000 SF CRU category.
- [13] The Respondent presented a copy of CARB 1722/2011-P (page 39-43, Exhibit R1) which addressed a similar request for the subject property in a previous assessment year, where the Complainant asked that the actual rental rate be used in the Income Approach calculation. In that Decision, the Board did not accept a single comparable lease (the subject) as indicative of the market value. The Respondent argued that the same situation is again presented to this Board by the Complainant.

Findings of the Board on this Issue:

- [14] The Board finds that one comparable, the subject lease, for each of the CRU 1,001-2,500 SF or CRU 2,501-6,000 SF categories is not a good indicator of market rent. The Respondent presented a number of comparable leases for each of the three CRU categories from the Crowfoot power centre (page 21-23, Exhibit R1) to support their assessed rental rates.

- [15] The Board was troubled by the lease analysis presented by the Respondent. If the data set is stratified based on size, presumably this is because size of the rental unit is a factor that affects rental rate. This is not the case with the analysis presented. The Respondent could not explain why the data was stratified by size or by these size categories.
- [16] The Board notes that while a number of the comparable leases presented by the Respondent for each of the three CRU categories support the assessed rate, there are a number of properties that are not achieving rent rates close to the assessed rate. This is demonstrated in the tables below, that arrays the comparable lease used by the Respondent in their analysis by property address.

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|-------------------|------------------|--------------------|--------------------|
| A | 20 Crowfoot Cr NW | 679 SF - \$50.00 | 1353 SF - \$43.00 | 4441 SF - \$35.00 |
| | | 855 SF - \$40.00 | 2033 SF - \$38.00 | |
| | | | 1021 SF - \$40.00 | |
| | | | 1361 SF - \$43.00 | |
| | | | 1366 SF - \$40.00 | |
| | | | 1119 SF - \$38.00 | |
| | | | 1117 SF - \$43.00 | |
| | | | 1669 SF - \$33.00 | |
| | | | 1011 SF - \$40.00 | |
| | | | 1449 SF - \$39.00 | |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|--------------------|------------------|--------------------|--------------------|
| B | 140 Crowfoot Cr NW | 741 SF - \$38.50 | 1248 SF - \$41.00 | 2621 SF - \$43.00 |
| | | | 1158 SF - \$41.00 | 4694 SF - \$43.00 |
| | | | 1008 SF - \$38.85 | 3668 SF - \$40.00 |
| | | | 1222 SF - \$41.00 | |
| | | | 1009 SF - \$39.00 | |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|---------------------|------------------|--------------------|--------------------|
| C | 7414 Crowfoot Rd NW | 634 SF - \$44.00 | 1119 SF - \$44.00 | |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|--------------------|----------------|--------------------|--------------------|
| D | 151 Crowfoot Cr NW | | 1062 SF - \$47.00 | 3888 SF - \$38.00 |
| | | | 1274 SF - \$36.00 | |
| | | | 1498 SF - \$39.00 | |
| | | | 1172 SF - \$39.00 | |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|--------------------|----------------|--------------------|--------------------|
| E | 800 Crowfoot CR NW | | | 3118 SF - \$41.00 |
| | | | | 4250 SF - \$40.00 |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|--------------------|----------------|--------------------|--------------------|
| F | 141 Crowfoot WY NW | | 1167 SF - \$24.00 | |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|--------------------|----------------|--------------------|--------------------|
| G | 400 Crowfoot CR NW | | 1577 SF - \$33.00 | |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|--------------------|----------------|--------------------|--------------------|
| H | 250 Crowfoot CR NW | | 1015 SF - \$28.00 | 4454 SF - \$25.00 |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|-------------------|----------------|--------------------|--------------------|
| I | 64 Crowfoot CI NW | | 1408 SF - \$26.00 | 4839 SF - \$22.00 |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|-------------------|------------------|--------------------|--------------------|
| J | 60 Crowfoot Cr NW | 991 SF - \$28.00 | 2090 SF - \$22.57 | |

| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|-------------------|------------------|--------------------|--------------------|
| K | 35 Crowfoot Cr NW | 848 SF - \$21.00 | | 3351 SF - \$27.00 |

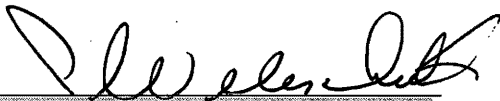
| | Address | CRU 0-1,000 SF | CRU 1,001-2,500 SF | CRU 2,501-6,000 SF |
|---|--------------------|------------------|--------------------|--------------------|
| L | 87 Crowfoot Way NW | 740 SF - \$30.00 | 1389 SF - \$30.00 | |
| | | | 1141 SF - \$32.00 | |
| | | | 1007 SF - \$33.00 | |
| | | | 1131 SF - \$28.50 | |
| | | | 1550 SF - \$26.00 | |

- [17] Considering the leasing comparable data presented by the Respondent and categorizing it by address confirms that size of the CRU unit is not a significant factor in the rental rate. There is some trend toward higher rents related to the date the lease commenced, with more recent leases achieving slightly higher rents than older leases, but this is also not a significant factor. However, the address of the property does appear to be a major factor in the rent that is being achieved by the property. Addresses A through E, which represent about two-thirds of the total lease comparables presented by the Respondent, support the assessed rental rates used by the City. Addresses F-L, representing about a third of the total lease comparables, are clearly obtaining a lower rental rate. This indicates that there is another factor, maybe related to location, that should be considered in determining the rental rates applied for properties in the Crowfoot power centre. The assessed rental rates applied to the Crowfoot power centre properties do not reflect the rents that can realistically be achieved for some of the properties in this centre. The subject property falls into this latter category.
- [18] Using the lease comparables for Addresses F-L, the average of the three CRU 0-1,000 SF category leases is \$26.33/SF with a median of \$25.50/SF. The ten lease comparables in the CRU 1,001-2,500 SF category average \$28.31/SF with a median of \$27.79/SF. The three lease comparables in the CRU 2,501-6,000 SF category average \$24.67/SF with a median of \$24.50/SF. These rates support the Complainant's requested lease rates of \$28.00/SF for the CRU 0-1,000 SF and CRU 1,001-2,500 SF categories, and \$25.00/SF for the CRU 2,501-6,000 SF category.
- [19] Neither party presented equity or sales comparables. Therefore, the Board is not able to compare the assessed value (as calculated by the Respondent or as requested by the Complainant) to sale prices to verify that the assessed value calculated reflects market value.
- [20] As rental rate was the only issue in dispute, the Board finds that the requested assessment of \$3,160,000 based on the requested rental rates, best reflects the market value of the subject property.

Board's Reasons for Its Decision

- [21] The Board concluded that the rental rate analysis done by the City did not capture what the evidence shows as two rather distinct categories. Using the leasing comparables presented by the Respondent, the Board arrayed the data by address to demonstrate that there is a factor (possibly some location factor) that influences rental rates that has not been identified by the City or captured in their assessment model. Using the lease comparables from the properties achieving inferior rents, the Board concludes that the rental rates requested by the Complainant reflect the market rates for these properties. The Board concludes that the 2013 assessment be reduced to the requested assessment of \$3,160,000, as calculated by the Complainant using the requested rental rates.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF July 2013.



Ivan Weleschuk
Presiding Officer

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

| NO. | ITEM |
|------------|---------------------------------|
| 1. C1 | Complainant Disclosure |
| 2. R1 | Respondent Disclosure |
| 3. C2 | Complainant 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.*