



## ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL  
1 SIR WINSTON CHURCHILL SQUARE  
EDMONTON AB T5J 2R7  
(780) 496-5026 FAX (780) 496-8199

### NOTICE OF DECISION 0098 136/10

Canadian Valuation Group  
Suite 1200, 10665 Jasper Avenue  
Edmonton, AB T5J 3S9

The City of Edmonton  
Assessment and Taxation Branch  
600 Chancery Hall  
3 Sir Winston Churchill Square  
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on August 9, 2010 respecting a complaint for:

<b>Roll Number</b> 3227055	<b>Municipal Address</b> 10665 109 Street NW	<b>Legal Description</b> Plan: 4768KS Block: 8 Lot: 177
<b>Assessed Value</b> \$1,736,000	<b>Assessment Type</b> Annual New	<b>Assessment Notice for:</b> 2010

**Before:**

**Board Officer:** Alison Mazoff

Dean Sanduga, Presiding Officer  
Terri Mann, Board Member  
Brian Frost, Board Member

**Persons Appearing: Complainant**  
Peter Smith, CVG

**Persons Appearing: Respondent**  
Ning Zheng, Assessor, City of Edmonton

### **PRELIMINARY MATTERS**

Neither party objected to the Composition of the Board, nor did the Board indicate any bias.

### **BACKGROUND**

The subject property is a corner, stand alone building comprising of 10,879 square feet, and is located at 10665 109 Street. It is situated on a lot comprising of 13,667.76 square feet.

## **ISSUES**

1. The assessment amount shown on the Annual Realty Assessment Notice for 2010 is incorrect as it is greater than the July 1, 2009 market value of this property. The assessment is inequitable in relation to the 2010 assessments of similar properties.

The Complainant did not disclose evidence on this issue and therefore the Board was not able to review this issue. The onus to prove that there is issue with an assessment is on the Complainant. The Complainant failed to satisfy its burden on this issue.

2. The lease rates estimated by the Respondent are greater than typical or market rents, as well as the actual rent for this property as of July 1, 2009. An analysis of this information indicates at least a 15% lower income should be applied to this property for 2010 purposes.

The Complainant did not disclose evidence on this issue and therefore the Board was not able to review this issue. The onus to prove that there is issue with an assessment is on the Complainant. The Complainant failed to satisfy its burden on this issue.

3. The capitalization rate used by the Respondent is lower than the capitalization rates derived from sales of similar properties. An analysis of these sales indicates that a higher capitalization rate of 8.5% should be applied for assessment purposes. In addition, the capitalized 2008 actual net operating income of the subject property is less than the assessment amount.

The Complainant did not submit evidence to the Board on this issue, other than to advise the Board as to the fact that a capitalization rate of 8.0% was used to arrive at the 2010 assessment. As a result, the Board was not able to review this issue.

4. The adjacent property (roll no. 3226909) is used as parking for this property and its assessed value should be deducted from the subject assessment to avoid double counting.

The Board had before it, only an appeal for Roll No. 3227055, therefore it did not have jurisdiction to deal with roll number 3226909.

5. The assessment amount is inequitable, as the 2010 assessments of similar retail properties have lower 2010 assessments per square foot than the subject property.

The Complainant did not provide evidence on this issue and therefore the Board was not able to review it.

## **LEGISLATION**

### ***The Municipal Government Act, R.S.A. 2000, c. M-26;***

s.460.1(1) A local assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on

(a) an assessment notice for

- (i) residential property with 3 or fewer dwelling units, or
- (ii) farm land,

or

(b) a tax notice other than a property tax notice.

s.467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s.467(3) 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,
- b) the procedures set out in the regulations, and
- c) the assessments of similar property or businesses in the same municipality.

### **POSITION OF THE COMPLAINANT**

The position of the Complainant is that the subject property is being utilized as a restaurant that is reliant on the adjacent Lot 176 for customer parking and access to the rear of the building as well as access to mechanical systems. Additionally, the building on the subject lot encroaches on the adjoining Lot 176. The lots should therefore be assessed as one, failing which the assessment for the subject lot 177 should be diminished by the amount of the assessment on lot 176 (\$451,000) to avoid a double assessment.

The Complainant provided photographs evidencing the access to the subject and the encroachment upon the adjoining property Lot 176 (C-1 P.13-16). The Complainant also provided, in support of his position, an MGB decision on point. (C-1 p.17)

### **POSITION OF THE RESPONDENT**

Prior to presenting his evidence, the Respondent advised the Board that during a recess, an agreement was reached between the Respondent and the Complainant for a revision to the 2010 assessment from \$1,736,000 to \$1,636,000 in consideration of the access and encroachment issues.

### **DECISION**

The Board recommends a revised assessment of \$1,636,000.00

### **REASONS FOR THE DECISION**

The Board finds that the rationale for the recommendation is both reasonable and valid. As a result, the Board accepted the recommendation for the revised assessment.

### **DISSENTING DECISION AND REASONS**

There were no dissenting reasons or opinions.

Dated this 23 day of August, 2010, at the City of Edmonton, in the Province of Alberta.

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Presiding Officer

*This Decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, R.S.A. 2000, c.M-26.*

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CC: 1100596 Alberta Ltd