

**CITY OF LETHBRIDGE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0007/2010

IN THE MATTER OF A COMPLAINT filed with the City of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Devon R. Kutsch Professional Corporation - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

M. Vercillo, Presiding Officer

K. Perry, Member

J. Hunt, Member

A hearing was held on Wednesday, August 11, 2010 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessment of the following property tax roll number:

Roll No./ Property Identifier	Assessed value	Owner
1-1-050-0529-0001 4353S;54;35-37	\$873,000	1237665 Alberta ULC.

Appeared on behalf of the Complainant:

- D. R. Kutsch

Appeared on behalf of the Respondent:

- V. Blazek
- L. Wehlage

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PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a dental (orthodontic) office building, built in 1985 and located at 529 5th Street South, Lethbridge. The building has a total net rentable area of approximately 3,825 square feet (SF) of main floor space and 3,967 SF of basement space. The building is situated on an assessable land area of approximately 7,813 SF resulting in an approximate 50% site coverage.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

PART C: ISSUES

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised are as follows:

Issue 1: The assessed value of the subject property is overvalued based on the purchase price of subject transacted on June 30, 2009 for \$500,000.00.

Issue 2: The assessed value of the subject property is overvalued based on a June 17, 2009 Appraisal of the subject property appraised at \$725,000.00.

ISSUE 1: The assessed value of the subject property is overvalued based on the purchase price of subject transacted on June 30, 2009 for \$500,000.00.

The Complainant provided a copy of an "Option To Purchase" document outlining the purchase contract for the subject property between Gary F. Stauffer Professional Corporation, "Grantor" (the former owner of the subject) and Devon R. Kutsch, "Grantee" (representing the current owner of the subject). Although the document was undated or blocked out (for possible confidential reasons), the Complainant revealed during questioning that the terms for the purchase of the subject were completed in June or July of 2005. The document stated that the purchase price for the subject was \$500,000.00 and that the option to purchase at that price would expire in June, 2010.

The Respondent provided a "2003 to 2010 Assessment Comparison" of neighboring office buildings to the subject. The 2003 year was chosen as a starting point because he had understood that 2003 and not 2005, was the actual "option to purchase year" for the subject. In any event, the document showed that the average assessment increase 2003 to 2010 for the subject and neighboring properties was 87%. The subject's increase in assessment from 2003 to 2010 was 55%. During questioning, the

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Respondent revealed that he did not consider the Option To Purchase document's sale price of \$500,000.00 because it was agreed to in 2005 (originally thought 2003) and therefore dated.

Decision: Issue 1

In view of the above considerations, the CARB finds as follows with respect to Issue 1: That the June 30, 2009 purchase price of \$500,000.00 for the subject was actually agreed to 4 years earlier in 2005 and therefore cannot be by itself, a good indicator of value for the valuation date of July 1, 2009. The CARB cites the following reasons in support of this finding:

- 1) The Complainant admitted during questioning that the value of the subject likely went up in the 4 years since the option to purchase agreement was transacted (see point 2), but felt that it may have gone down in the last year.
- 2) The Assessment Review Board Complaint form signed by the Complainant stated a requested assessed value of \$725,000.00.
- 3) The Option To Purchase contract for the subject, was struck between two parties that had an associate practice in dentistry together. The option price of the subject arrived at in the contract may have been influenced by the purchase of the orthodontic and dental practice transacted between the same two parties.
- 4) The Respondent's evidence revealed that assessment values of properties in the neighborhood of the subject have increased an average of 87% since 2003. Although this does not coincide exactly with the time period since the option to purchase contract was agreed to in 2005, the Board opines that a large part of the increase likely occurred since 2005.

ISSUE 2: The assessed value of the subject property is overvalued based on a June 17, 2009 Appraisal of the subject property appraised at \$725,000.00.

The Complainant provided a copy of a June 17, 2009 appraisal of the subject property performed by Nancy Hosack of Reliance Appraisal Consultants Ltd. During questioning, the Complainant revealed that the purpose of the appraisal was to prepare for the 2010 assessment appeal and also to review the value of the subject property relative to the Option To Purchase agreement referred to in issue 1. The appraisal document revealed that the engagement was done to update a previous appraisal performed in November, 2003. Two approaches to value the subject were used in the appraisal; the Direct Comparison approach and the Income Capitalization approach. In using the Income Capitalization, the author capitalized an "anticipated annual income" of \$71,922 using a capitalization rate (cap rate) of 9.75% to arrive at an indicated value of \$738,000 for the subject. In the Direct Comparison approach, the author ascribed a value of \$120.00 per main floor SF for the building based on comparable 2008 building sales and \$30.00 per SF of land based on comparable 2007 and 2008 land sales. The resulting value

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indicated was \$693,000 for the land and building of the subject. In reconciling the two aforementioned approaches to value, the author arrived at a final value of \$725,000.00 for the subject as at June 17, 2009.

The Respondent provided a short summary of his income approach to assessing value to the subject, by capitalizing a net operating income of \$71,983 using a cap rate of 8.25% to arrive at an assessed value of \$873,000 for the subject. The Respondent explained that the main difference between his income approach and that of the Appraiser is the cap rate. In support of his cap rate, the Respondent provided approximately 149 sales of various properties from 1994 to 2010 and resulting cap rates. In graphical form, he shows cap rates have been declining in Lethbridge from almost 12.0% in 2004 to just less than 8% in 2010. In a second graph, the Respondent indicates that cap rates have stabilized to just less than 8% from 2007 to 2009. During his presentation the Respondent stated that he has been using an 8.25 cap rate for buildings older than 15 years and similar to the subject.

The Respondent also countered the appraisal evidence supplied by the Complainant offering possible explanations for the higher cap rate used by the Appraiser. Basically the Respondent claimed that the Appraiser "synthesized" the cap rate by using economic rents rather than actual rents because the buildings were primarily vacant at the time of sale and because one of the properties was a non-arms length sale.

The Respondent also provided a chart of sales of buildings comparable to the subject that sold from 2002 to 2009. The chart of mainly medical and one 2009 dental office sale indicated that the sales price per main floor SF for each comparable ranged from \$198.92 to \$289.86 with an average of \$233.94. The subject is currently assessed at \$228.24 per main floor SF.

Decision: Issue 2

In view of the above considerations, the CARB finds as follows with respect to Issue 2: The Complainant's appraised value of \$725,000.00 offers an opinion of value for the subject at or near the valuation date, however, it fails to prove that the assessed value is not representative of market value, fair or equitable. The CARB provides the following reasons for this finding.

- 1) The CARB accepts the evidence presented by the Respondent that the cap rate derived by the appraiser may be "synthesized" because it was derived from incomes of buildings that were vacant at the time of sale and had non-arms length sales included. The author of the Appraisal was not present and therefore could not dispute, counter nor support her findings.
- 2) The CARB accepts that the Respondent has used a cap rate of 8.25% for all properties similar to the subject and that are older than 15 years, as in the case of the subject. Therefore, using a higher cap rate for the subject would

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be unfair or inequitable to other similarly assessed and comparable properties.

- 3) The assessed value of the subject per main floor SF is fair and equitable when compared sales price per main floor SF of comparable medical/dental office properties.

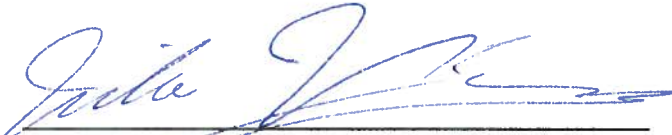
PART D: FINAL DISPOSITION OF COMPLAINT

The complaint is denied and the assessment is confirmed as follows.

Roll No./Property Identifier	Value as set by the CARB	Owner
1-1-050-0529-0001 4353S;54;35-37	\$873,000	1237665 Alberta ULC.

It is so ordered.

Dated at the City of Lethbridge, in the Province of Alberta, this 18th day of August, 2010.



Presiding Officer

