

**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(4).

between:

1512399 Alberta Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

P. Mowbrey, PRESIDING OFFICER

K. Farn, MEMBER

B. Jerchell, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 034181404

LOCATION ADDRESS: 224 41 Avenue NE

HEARING NUMBER: 56524

ASSESSMENT: \$1,910,000

This complaint was heard on 29 day of June, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- Shiraz Somji

Appeared on behalf of the Respondent:

- Marcus Berzins

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

A procedural matter was brought forward by the Respondent that the Complainant had not received the Respondent's evidence package. The Complainant stated that the evidence package would not change what he had to present and would continue with the Hearing.

The Board's decision was to proceed with the Merit Hearing.

Property Description:

The subject property is a single tenant industrial warehouse located in the NE Industrial area, with a year built in 1967, and a building footprint of 9,420 sq ft and rentable building area of 13,187 sq ft with a site area of 0.66 acres and a site coverage ratio of 32.77. The interior is 41 % finished, and has a 2010 Assessment of \$1,910,000 or \$144.00 per sq ft.

Issues:

1. Is the 2010 Assessment of \$1,910,000 too high considering the sale price of \$1,425,000, of the subject property at March 10, 2010?
2. Is the 2010 Assessment of \$1,910,000 too high considering the cost of repairs and renovations to meet the City codes and standards for permitting for a change of use.

Complainant's Requested Value: \$1,425,000

Board's Decision in Respect of Each Matter or Issue:

The Complainant purchased the subject property for \$1,425,000, and took possession, March 16, 2010, C1. The intended use of the subject is an auto repair facility, which is a change in use from its previous use as a retail hardware store.

The Complainant stated that a number of repairs and renovations were needed to the property to meet the codes and standards set out by the City for permitting, which was adding a cost burden to the Complainant.

The Respondent presented 6 comparable sales in the NE Industrial area, R1 P16, which averaged a TASP of \$182.00 per sq ft to support the assessed value of the subject property at \$144.93 per sq ft., R1 P 16.

The Respondent suggested if the use of the property continued as a retail hardware store, there would not be the requirement for permitting for a change of use, and therefore no cost burden to the Complainant, however, the Complainant purchased the subject property for the auto repair facility.

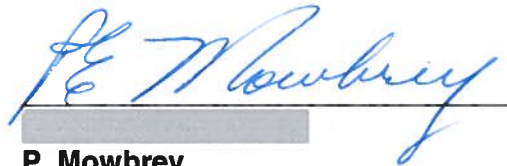
The Respondent could not use the sale of the subject property at March 16, 2010, C1, as it took place 9 months after the valuation date of June 30, 2009, and therefore, not considered by the Respondent in the 2010 Assessment.

1. The Board cannot consider the sale price of \$1,425,000, C1, of the subject property, as it is 9 months post facto to the valuation date of June 30, 2009, and will be considered in the next assessment year.
2. The Board is of the opinion the Complainant purchased the subject property with the intent to change the use of the property from a retail hardware store to an auto repair facility, and would have known of the permitting requirements.

Board's Decision:

The Decision of the Board is to confirm the 2010 Assessment of \$1,910,000.

DATED AT THE CITY OF CALGARY THIS 8th DAY OF July 2010.



P. Mowbrey

Cc: Owner

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.*