

**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:

Assessment Advisory Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Steven C Kashuba, PRESIDING OFFICER
Ed Reuther, MEMBER
Ron Roy, 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: 093162600

LOCATION ADDRESS: 4000 – 26 Street SE

HEARING NUMBER: 58377

ASSESSMENT: \$2,230,000

This complaint was heard on the 7th day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *K. Gardiner*

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

No procedural or jurisdictional matters presented.

Property Description:

The subject property, located in the southeast sector of the City, is a retail development consisting of 14,233 square feet of space. There are 12 leasable areas, the smallest of which is 312 square feet while the largest is 2,700 square feet in area. The land use is designated as C-N2, Commercial Neighbourhood. Located in the Community of Dover, the subject building was constructed in 1983. The current assessment is \$2,230,000.

Issues:

1. The City's rental rate is not reflective of market rental rates.
2. The property suffers from a chronic vacancy and has been 40% vacant since 2007.

Complainant's Requested Value: \$1,160,000.

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

1. The City's rental rate is not reflective of market rental rates.

To support their contention that the subject property has been assessed at rental rates not reflective of market rental rates, the Complainant presented both the City's rental rates and that of the client (1-C, page 11). For the three categories of CRUs (1-C, page 9) the City applied \$10, \$10, and \$9 per square foot while the Complainant requests \$8.50 per square foot for each category. However, little evidence was provided by the Complainant in support of their request while, on the other hand, the Respondent presented six comparables (1-R, page 24) which support the rental rates applied by the City. As a result, the board places considerable weight upon the evidence presented by the City.

2. The property suffers from chronic vacancy, and has been 40% vacant since 2007.

In support of their request for a reduction in the assessment the Complainant presented a pro forma (1-C, page 24) utilizing a vacancy rate of 30% as opposed to the City's 7%. By using this analogy and arriving at a Net Operating Income of \$96,049 and applying an uncontested capitalization rate of 8.25%, the Complainant arrived at a requested assessment value of \$1,160,000. However, the board notes that the Complainant presented an Assessment Request for Information sheet for 2006 and 2010 but not for the intervening years.

As for the Respondent, they supported their application of a 7% vacancy rate through typical vacancy rates for like properties in the same sector of the City. In this regard, the City noted that the Complainant did not submit an ARFI report for the two years prior to the assessment year. As for market rates per square foot of the subject property, the City further supported the assessment value through sales of similar properties (1-R, page 25) wherein the values per square foot do support the assessment value.

In rendering its decision, the board notes that the Complainant requested a reduction in the assessment of the subject property as a result of a chronic vacancy exhibited in four of the twelve leases. However, the board finds that the Complainant failed to provide the necessary information to the City through the completion and submission of Form ARFI (Assessment Request for Information) for 2009 (1-C, pages 14 – 21) which could have been used to address the question of chronic vacancy. As a consequence, the City applied a standard vacancy rate of 7% (1-R, Non-Residential Properties, Income Approach Valuation, page 15).

Additionally, the Complainant requested that a lease rate of \$8.50 per square foot (1-C, page 11) be applied to the subject property to recognize the element of chronic vacancy; however, insufficient documentation was provided to support this request as opposed to the \$10.00 lease rate per square foot as utilized by the City (1-R, page 24).

To further support the assessment, the Respondent submitted that were the Complainant's request for a reduction in the assessment to a value of \$1,160,000 granted, this would translate to a market value of \$81.50 per square foot while an analysis of market values (1-R, page 25) indicates an average value per square foot in excess of \$200.

The board finds that the Complainant did not provide sufficient evidence of a compelling nature which would support their allegation of a chronic vacancy and thereby bring into question the assessment of the subject property. As well, the Complainant did not submit any evidence which would support a lease rate of \$8.50 per square foot.

Board's Decision:

It is the decision of the board to confirm the assessment of the subject property for 2010 at \$2,230,000.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF July 2010.



Steven C. Kashuba
Presiding Officer

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.*