

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Colliers International Reality Advisors, on behalf of DP Plaza Ltd. COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T Golden, PRESIDING OFFICER

Y Nesry, MEMBER

J Joseph, MEMBER

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

ROLL NUMBER: 149150294

LOCATION ADDRESS: 14919 Deer Ridge Dr. SE

HEARING NUMBER: 58165

ASSESSMENT: \$16,660,000.00

This complaint was heard on 6 day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- S Meiklejohn

Appeared on behalf of the Respondent:

- M Bryne

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

The complainant stated that the city information and evidence package was not made available to their office in accordance with the time lines established in legislation. This did not allow the opportunity to review the data and prepare rebuttal for the purpose of this hearing. After a recess of the hearing the complainant found no record of receipt of the City evidence with their office. Exhibit 1 was produced and is a record that the information was sent to the respondent June 21 2010. No record of receipt was returned to the City at that time. Upon a review of the respondent's evidence the complainant agreed to continue with the hearing.

Property Description:

The subject property is a neighbourhood shopping centre commonly referred to as the Deer Point Plaza and contains an assessed area of 74,559 sq. ft. The rent roll contains a different total area but this was accounted for by the method used by the City to assess the gas bar and a mezzanine area. Within the property are a variety of commercial uses anchored by a Sobeys food store. Commercial uses are both part of a main structure and free standing. An assessment was conducted on the basis of an income approach.

Issues:

1. Classification of spaces of the subject property as of Dec 31.
2. Valuation and market value relating to rental rates
3. Equity to similar properties
4. Assessment and valuation procedure used by the City referring to ASR's on certain comparables
5. Quality and location assigned to the subject

Complainant's Requested Value: \$11,790,000.00

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

1. Issue 1 and 2 were closely related and The Board found the rental rate used to determine the assessment correct.

The complainant submitted actual lease information from the current rent roll to the Board to

demonstrate the lease rate for:

- the restaurant area should be \$16.00 per sq ft rather than the \$30.00 per sq ft used in the assessment
- the bank area should be \$25.00 per sq ft rather than the \$28.00 used in the assessment
- the CRU space between 2500 and 6000 sq ft should be \$20.00 rather than the \$21.00 used in the assessment

The respondent presented a series of tables to show how the typical rate used in the assessment was developed. The Board found a number of issues with the City analysis however placed more weight on the City evidence as it represented some broader market evidence. In particular the evidence regarding bank rates was compelling. No market evidence was provided by the complainant other than that of the subject property. The respondent pointed out that the standard of mass appraisal is typical values as opposed to actual values for a particular property. Although the complainant's argument that the actual leases represent market value the Board found that the actual leases do not reflect the current assessment year. For example the restaurant lease used to justify a \$16.00 rental rate was a 10 year lease commencing in Sept 2005.

2) Issues 3 and 4 were closely related and the Board finds the property to be assessed equitably.

It was argued that a table of 8 commercial sales found on the City web site and used to establish typical values for the assessment year demonstrated inequity. A calculation showed that the ASR's for the sales were a substantial deviation from standard. The closest ASR was .91 and the greatest departure was .56 with a mean and median of .75. The complainant suggested that all these properties were systematically under assessed. It was argued that once the issues of rental rate and vacancy were factored into the assessment a further 25% should be deducted to reflect equity with the comparable properties. The respondent had no explanation for the ASR calculation and apparent variance from standard but explained that all commercial properties in the list were assessed on the income approach using the same data.

The Board recognized that there appears to be a problem with the ASR's related to the comparable properties suggesting an under assessment of those properties listed. A direct link was not established between the mean ASR of .75 and the request to reduce the assessment by a further 25%. For example the complainant was unable to present clear evidence that the subject property was not already subject to the same factors that applied to the comparables and is assessed similar to those properties.

The finding not to adjust the assessment on the basis of the equity argument was also influenced by the comparables. For the purpose of equity the Board was not convinced that the properties used were similar enough in sizes structure or quality.

3) The board finds the quality and location of the structure is considered in the assessment and does not warrant an adjustment.

The complainant suggested that the centre was in a neighbourhood isolated by Fish Creek Park and the Bow River however the centre is largely intended to serve the neighbourhood rather than commerce from traffic passing through the area. This information was provided to the Board to generally support the requested reduction and no specific reduction in value was argued.

Board's Decision:

The assessment is confirmed at \$16,660,000.00

DATED AT THE CITY OF CALGARY THIS 23 DAY OF July 2010.



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.*