

**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 Realty Advisers, COMPLAINANT

And

The City Of Calgary, RESPONDENT

Before:

Dean Sanduga, PRESIDING OFFICER

Yvette Nesry, MEMBER

Jim 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 : 142077908
LOCATION ADDRESS : 11625 ELBOW DR SW
HEARING NUMBER : 58173
ASSESSMENT : \$12,680,000

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 10.

Appeared on behalf of the Complainant:

- *Chris Hartley – Representing Colliers International Realty Advisors*

Appeared on behalf of the Respondent:

- *Margaret Byrne – Representing the City of Calgary*

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

The question of bias was raised and all parties indicated that there was no bias

Both the Complainant and the Respondent indicated that there were no preliminary matters

Property Description:

The subject property is a Retail Strip Mall located at 11625 Elbow Dr. SW comprising of 74575 sq.ft. and known as the Canyon Meadows Shopping Centre, the subject was built in 1977.

Issues:

- 1- Is the assessed value reflective of the income potential of the subject property and assessed in excess of market value?
- 2- Have the changes in condition in the leasing market, been properly reflected in the assessment model?
- 3- Is the assessment of similar property equitable with the subject property?
- 4- Has the physical condition and attributes of the subject property been reflected in the subject's assessed value?
- 5- Has the location of the property been properly reflected in the subject's assessed value?

Legislation:

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

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.

Complainant's Requested Value:

\$ 10,900,000 less \$177,500 exemption

Complainant's Submission :

The subject is a struggling shopping centre located at Anderson Road and Elbow Drive, and assessed as a Class A- centre. The Complainant also submitted that the subject has a chronic 14.1 % vacancy problem, and suggested that a Class C rating is more appropriate. A Class C retail property would be assessed using an 8.25% Capitalization rate, 9% vacancy and \$8.50 per sq. ft. operating costs.

The Complainant submitted a rent roll for the years 2004, to 2009 which demonstrate the chronic vacancy problem. The vacancy for subject has ranged from 9% to 22% and is currently at 14.1%.

Respondent's Submission:

The Respondent submitted that the subject property classification has been changed to class "A" and as well changed in 2008 from a neighborhood shopping center classification to a strip mall shopping center "A" classification, this change has affected the anchor tenant current lease rate from \$6.50 per sq. ft. to \$22.00 per sq. ft. on 20,297 sq. ft. The Anchor lease was executed in 2008.

The Respondent confirmed that the \$6.50 per sq ft. was correctly assessed prior to the classification changes.

The Respondent advised the Board that the subject property was assessed with a 25% vacancy adjustment.

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

- 1- The Board does agree with the Complainant that the Respondent presented no Evidence to indicate in what manner the assessment was prepared in accordance with Section 293 of the M.G.A.
- 2- The Board is persuaded by the Complainant evidence that the subject property clearly demonstrated a chronic vacancy problem and has experienced vacancy since 2004 , and the current vacancy is at 14.1%.
- 3- The Board accepts the Complainant's requested lease rates :

Anchor Tenant	20,297 sq.ft.	\$6.50 per sq.ft.
CRU- 1000	5,280	\$21.00 per sq.ft.
CRU- 2000	18,746	\$21.00 per sq.ft.
CRU-6000	10,217	\$17.00 per sq.ft.
Office	20,708	\$17.00 per sq.ft.
Vacancy 14.1 %		

- 4- The characteristics ,physical condition and the chronic vacancy of the subject support a re-classifications to "C" level
- 5- The Board places less weight on the Respondent's lease comparables, wherein the Comparables are class "A" and located at superior location, none with restricted access, newer centres and not similar to the subject.

Board's Decision:

The decision of the Board is to reduce the 2010 assessment from \$12,680,000 to \$10,900,000 (Which includes the exemption value of \$177,500) .

DATED AT THE CITY OF CALGARY THIS 22 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.*