

**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:

ALCO Holdings Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

L. Wood, PRESIDING OFFICER

I. Zacharopoulos, MEMBER

D. Steele, 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: 031003502

LOCATION ADDRESS: 3639 27 Street NE

HEARING NUMBER: 56997

ASSESSMENT: \$2,680,000

This complaint was heard on 10th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *Mr. Allan Yellin*
- *Mr. Colin Marks*

Appeared on behalf of the Respondent:

- *Mr. Marcus Berzins*

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

At the commencement of the hearing, the Respondent raised a preliminary issue in regards to the Complainant's evidentiary package. The Respondent indicated that he did not receive a disclosure package from the Complainant in advance of the hearing. The Complainant indicated that the evidence he wanted to submit was back- up documentation for the sales comparables that he had listed on the complaint form. The Board decided not to allow the Complainant to submit his evidence on the basis that it was not disclosed in accordance with the legislative requirements set out in section 8 of *Matters Relating to Assessment Complaints Regulation* AR 310/2009. The Complainant was advised to restrict his testimony to what was identified on the complaint form and its attachments.

Property Description:

The subject property is a multi tenant industrial warehouse with 16,170 sq ft rentable building area located on a 1 acre site in Horizon. The building was constructed in 1979.

Issues: (as indicated on the complaint form)

1. Assessment value by price per square foot
2. Comparable sales last year
3. Value based on capitalizing net rental income

Complainant's Requested Value: \$2,000,000

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

The Board notes that the Complainant identified several issues as to why the assessment for the subject property is incorrect on the appendix to the complaint form and addressed these issues at the hearing, as follows:

Assessment value by price per square foot

The Complainant identified three properties that are located near the subject property and compared

their tax rates that ranged from \$1.05 - \$1.72 psf to the subject property at \$2.17 psf (Exhibit C1 page 2). The Board finds the tax comparison is not an appropriate basis for valuation. The Board also notes that it does not have jurisdiction to decide matters concerning tax rates.

Comparable sales last year

The Complainant submitted four sales comparables that ranged from \$83- \$141 psf compared to the subject property that is assessed at \$163 psf (Exhibit C1 page 2). The Board finds that the sales comparables provided by the Complainant lacked sufficient details to illustrate how these properties are similar to the subject property to form a basis of valuation. Moreover, the Board finds that three of the four sales occurred after the legislated valuation date of July 1, 2009 and are considered post facto by the Board. The Board finds the sales and equity comparables presented by the Respondent support the assessment (Exhibit R1 pages 14 & 15).

Value based on capitalizing net rental income

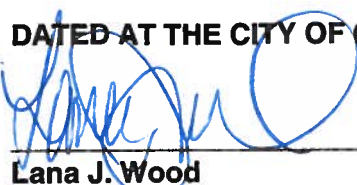
The Complainant suggested an income approach using 8% capitalization rate and a net rental amount of \$120,000 to derive an assessment of less than \$2,000,000 (Exhibit C1 page 2). However the Board finds that the Complainant's income approach did not provide sufficient details and supporting data in which it could base a reduction.

The burden of proof is on the Complainant to prove that the assessment is incorrect. The Board finds that the Complainant in this instance did not provide sufficient evidence to bring the assessment into question.

Board's Decision:

The decision of the Board is to confirm the assessment for the subject property at \$2,680,000 for the 2010 assessment year.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF AUGUST 2010.



Lana J. Wood
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.*