

**CALGARY
COMPOSITE 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:

Linnell Taylor Assessment Strategies, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Steven C Kashuba, PRESIDING OFFICER

Alfredo Wong, MEMBER

Ike Zacharopoulos, 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: 079019493

LOCATION ADDRESS: 2116 – 4 Street SW

HEARING NUMBER: 56210

ASSESSMENT: \$2,120,000

This complaint was heard on the 30th day of August, 2010 by the Composite Assessment Review Board 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:

- *David Sheridan*

Appeared on behalf of the Respondent:

- *Andy Czechowskyj*

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

At the outset of the hearing both parties requested that a recess be granted by the board so that they might consider the salient variables contained in the current assessment with the view of coming back to the board with a recommendation. The board granted the request for a recess.

Following the recess, the parties made a joint submission requesting that the assessment be reduced from \$2,120,000 to \$1,910,000. The rationale for this recommendation is contained in the merits of the hearing, which follow.

Property Description:

Located in Commercial Corridor 1 (Beltline Commercial Zone), the subject property is an occupied retail site encumbered with a 10-year lease expiring on September 30, 2012. One of the two tenants remains while the remaining space is being actively marketed for restaurant use. The property is classified as a small retail property demised into two areas, one of which is occupied by Towa Sushi. Consisting of 5,314 square feet of space, the date of construction is 1911.

Issue:

1. Does the assessment take into consideration the chronic vacancy within the subject property?

Complainant's Requested Value: \$1,140,000.

Position of Complainant

The Complainant submitted that the subject property's assessment value increased by 13.37% from the previous year, a figure that cannot be supported in a shrinking economy. As well, the current assessment is predicated on land value at a rate of \$215 per square foot which constitutes an anticipatory conversion of value and does not reflect its current status as fully-leased retail space encumbered for a period of 10 years. Instead of using land value, an income approach to value should be used. In any event, even if the assessment were based upon land values, a reduction would have to be invoked based upon the costs incurred for breaking the lease, demolition costs, and cost to cure in the event of environmental issues.

At issue is the chronic vacancy within the subject property since 2007. In this regard it is noted that the Latin Quarter vacated their lease, since which time it has stood empty for a period of three years. As a result, it is the request of the Complainant to increase the vacancy rate allowance from 8.5% to 25%. Notwithstanding the earlier request for an increase in the vacancy rate allowance to 25%, the Complainant and Respondent agreed to a reduction in the vacancy rate allowance from 8.5% to 15%.

Position of Respondent

The Respondent submitted that the subject property sold in 2004 for a value of \$1,750,000 or at a rate of \$322 per square foot and is currently assessed at \$399.64 per square foot. At the time of sale the property was fully occupied by Towa Sushi and Latin Corner, both of which were subject to ten year leases which commenced in September of 2002. In addition to presenting how the property was assessed using vacant land values, the Respondent presented a Beltline Capitalization Rate Study which shows that capitalization rates range from 5.94% to 7.52%. A capitalization rate of 7.5% was applied to the subject property.

However, the Respondent reconsidered their position during the recess and at the conclusion of the recess the parties came back to the board with a recommendation to increase the vacancy rate allowance from 8.5% to 15% which, when applied to the Net Operating Income in the Pro-Forma, would result in a reduction to the assessment from \$2,120,000 to \$1,910,000.

Board's Decision as Regards the Vacancy Rate

Having regard for the agreement of both parties to accept an increase in the vacancy rate allowance in the subject property from 8.5% to 15%, the board accepts the recommendation of the parties to apply this rate in the Pro-Forma and to reduce the assessment of the subject property.


Decision of Board

It is the decision of the board to reduce the assessment of the subject property for 2010 from \$2,120,000 to \$1,910,000.

Reasons

The board accepts the submission of both parties that the subject property exhibits a chronic vacancy over a period of three or more years which should be reflected in the assessment value. In this regard the board accepts the recommendation of both parties to apply a vacancy rate of 15% to the subject property which, when applied within the Pro-Forma, results in a reduced assessment.

DATED AT THE CITY OF CALGARY THIS 8 DAY OF September 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.*