

**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:

Gillian and Roger Bowles, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

D Trueman, PRESIDING OFFICER

Y Nesry, Board Member

D Julian, Board 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: 068136704

LOCATION ADDRESS: 224 – 13 avenue SW

HEARING NUMBER: 60261

ASSESSMENT: \$1,320,000

This complaint was heard on 14th day of September, 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:

- *Gillian Bowles and Roger Bowles*

Appeared on behalf of the Respondent:

- *Patricia Ohlinger*

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

Prior to the start of the hearing the Respondent advised the panel that Complainant rebuttal material was received by the City on September 10, and that this did not meet with the minimum seven day requirement. The Complainant responded by saying that a series of e-mails with Mr. Grandboise of the City Assessment Department pre-empted them from responding within the required time frame. Upon examination of the rebuttal evidence Ms. Ohlinger agreed that the bulk of the evidence would not be objectionable, saving thereout only exhibits K,L and M of the Complainant's rebuttal package. It was therefore agreed by the parties that the merit of the hearing could commence without objection. The panel decided that procedural fairness had been achieved and at the hearing would proceed.

Property Description:

The subject property is a mixed use, commercial and residential development, consisting of two buildings. The commercial development is a building constructed 103 years ago comprising roughly 1900 ft.² and which has undergone extensive rehabilitation. The residential component consists of an up and down duplex built 11 years ago which contains approximately 2000 ft.². This property is located in the beltline area of Calgary and the land base is 7002 ft.² within an RM 7 zoning district, which also contains DC development guidelines. In part these development guidelines restrict future development in order to protect neighbouring properties and for this reason the appealed property has been subject to an order in 2009 reducing its assessment. The property is vacant except for one of the duplex dwelling units in which the Complainants reside.

Issues:

The issues to be decided are:

- 1/ did the city over assess the property in comparison to neighbouring properties and in particular the property next door at 228 13th Ave. SW.
- 2/ did the city adequately account for value reducing characteristics in the neighbourhood e.g. construction noise and other interference.

Complainant's Requested Value: \$638,000.00

Complainant position issue 1/

The complainants presented the belief that property values in the neighbourhood were based upon a land only value. In other words because of imminent development, improvements found would in all likelihood be torn down. Therefore, the property next door at 228 13th Ave. which is assessed at \$1,410,000 and which should also receive a 30% discount due to development constraints should just be assessed at 141 Dollars per Sq. foot.

Complainant position issue 2/

The complainants reason that the 141 Dollar per Sq. foot value indication above does not account for the deleterious effects currently present in the neighbourhood. They suggest that a further reduction of approximately 11 Dollars per Sq. foot would account for such things as noise emitted from pile driving equipment, construction blockades and other re-routing as well as noise and dust and other environmental contaminations. To arrive at their requested assessment amount, the Complainants felt that this 130 Dollar per Sq. foot value indication should be further reduced by the ordered 30% development constraints allowance

Respondent position issue number 1/

The respondent presented their exhibit R 1 which on page 22 demonstrates a 30% reduction for development restrictions as ordered last year. The respondent further testified that the property next door at 228 13th Ave. is a 10 suite apartment building which because of the improvements contributing to land value at the present time was valued on the income approach.

Respondent position issue number 1/

The respondent exhibit R 1 presented a list of five beltline sales together with MLS and other sales listing detail. The respondent testified that all of these sales were either homes or home conversions and thus similar to the subject. She pointed out that the sale at 639 15th Ave. SW. was particularly instructive. This sale confirms the median of the range of sales prices expressed as a dollar amount per square foot. With these sales ranging from \$196 to \$313 Dollars per Sq. foot and an average selling price of \$ 269 Per Sq. foot the selected value for the subject property of \$270 Dollars per Sq. foot was in her opinion reasonable. The respondent further provided a chart of roughly 100 comparables approximately 15 of which contained the same descriptive code as the subject and which indicated similar assessments throughout the city of approximately 270 Dollars per Sq. foot.

Board's Decision in Respect of Each Matter or Issue:Issue number 1/

The panel understands that as long as the improvements contribute to land value then the highest and best use of the property is as improved. Appraisal theory requires that market value be based upon the highest and best use of the property. As such the board determines that the value attributed to the neighbouring property at 228 13th Ave. is not instructive with respect to a valuation for the subject because of the significantly different property use, i.e. apartment vs. mixed use commercial.

Issue number 2/

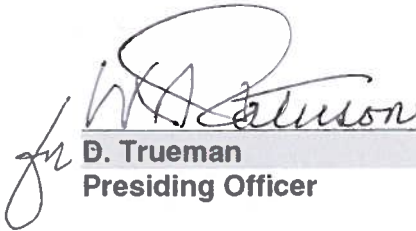
The panel examined the five comparable sales, and each of the sales details, presented by the Respondent. The board felt that the sale at 639 15th Ave. SW. was particularly helpful with respect to age of improvements, zoning and date of sale. The board further examined the extensive list of equity comparables and determined that 270 Dollars per Sq. foot was an

amount that would represent a reasonable assessment for the subject property, based upon other assessments in the City. Furthermore, once discounted by 30% for negative development factors, and particularly in the absence of any market evidence by the Complainants, the board felt that the assessed value was reasonable. The board recognizes the responsibility of the complainant to meet an onus standard which in this case would be more than conjecture and would be in the form of either direct sales evidence or the opinion of a qualified professional appraiser.

Board's Decision:

The assessment is confirmed at \$1,320,000.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF October 2010.


D. Trueman
Presiding Officer

DT/sd

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.*