

**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:

Randall Flemmer, 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 assessments prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBERS:094501186/094501202

LOCATION ADDRESSES:215, 4999-43 St SE and 211, 4999-43St SE

HEARING NUMBERS:60267, 60266

ASSESSMENTS: \$192,500, \$158,000

This complaint was heard on 15th 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:

- *Randy Flemmer*

Appeared on behalf of the Respondent:

- *Denis Desjardins*

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

There were no preliminary, procedural or jurisdictional matters before this hearing

Property Description:

The subject properties are two condominium office units located within an office warehouse complex which has been converted to condominium ownership. Unit number 215 comprises 705 ft.² of office development and unit number 211 comprises 461 ft.² of office development. As a result of the unique architectural (floorplan) characteristics of these units they function as one unit.

Issues:

Has the City assessor over assessed unit number 211 because of the absence of a private access to this unit.

Complainant's Requested Values: unit 211, \$29,000, unit 215, \$192,500

Complainant's position

The complainant testified to the Board that the subject complex had been condominiumized, and as a result, approximately 40 individually titled units were created. Many of these units were of a unique design or floorplan. With respect to the subject units it is necessary to access unit 211 through unit 215. The Complainant presented his exhibit C1 which demonstrated photographs of the foregoing. Mr. Flemmer testified that it would be impossible to sell either of these units individually. Mr. Flemmer further testified that the cost associated with resurveying the entire complex made the potential for consolidating titles prohibitive. On questioning he further testified that there was no architecturally feasible way to construct an entrance to unit number 211 and that even if in the event that there were, the condominium association would likely prohibit such activity. Mr. Flemmer testified that he paid approximately \$180,000 for both units some 3 to 4 years ago and that he felt their combined value had increased slightly but not much.

Respondent's position

The respondent presented his assessment brief exhibit R 1 which included both units 211 at 215 in acknowledgment that their values are interdependent. On the other hand, he reminded the

Board that he was required to assess condominium units individually. To this end he presented a chart of equity comparables which demonstrated his treatment, on an assessed value per square foot basis, of fair and equitable assessments for the subject properties. On questioning Mr Desjardins agreed that the subject properties were unique and that there should be some adjustment for the absence of private access to unit number at 211 however, he didn't not know how such a calculation could be accommodated within his mass appraisal model.

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

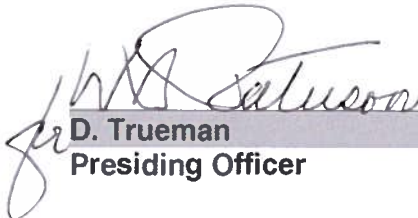
The Board accepts the testimony of both the Complainant and the Respondent that the subject property unit 211 is dependent on unit 215 for access. It also accepts the testimony of the parties that a remedy for this access is not financially feasible. In order to determine an adjustment amount for this functional obsolescence the Board examined the list of equity comparables located on page 20 of exhibit R 1. It was apparent to the Board that as unit sizes increase property values on a per unit basis decrease. On a combined basis units 211 and 215 would comprise an area of the 1166 ft.². The largest condominium unit in the complex, at 957 ft.² attracted an assessment of 239 dollars per Sq. foot. It made sense to the Board to apply the 239 Dollar per Sq. foot rate to the 1166 ft.² area of the subject units for a total assessment of roughly \$278,000. Once the undisputed assessed value of the unit 215 was deducted, a resulting assessment for unit 211 of \$85,500 was indicated.

Board's Decision:

Roll #094501186 is confirmed at \$192,500

Roll #094501202 is reduced from \$158,000 to \$85,500

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.*