

**CALGARY
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 & Associates, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Sadlowski, PRESIDING OFFICER

A. Wong, MEMBER

I. Zacharopolis, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	099041402
LOCATION ADDRESS:	135 Lynnvview RD SE
HEARING NUMBER:	56201
ASSESSMENT:	\$38,640,000

This complaint was heard on the 22nd day of October, 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:

- *D. Sheridan* *Agent, Linnell Taylor & Associates*

Appeared on behalf of the Respondent:

- *C. Neal* *Assessor, The City of Calgary*

Property Description:

The subject property known as Cedar Ridge Apartments, is a multi-residential complex comprised of six building clusters. The buildings are walk-up apartments of wood frame construction. The subject was built in 1979 and has 263 units- 90 - one bedroom, 160 - two bedroom, and 13 - three bedroom. The property is located adjacent to the lot outside of the approximately contaminated area on which a refinery existed. The subject has surface parking.

Issues:

1. Is the subject performance detrimentally influenced by the public awareness of contamination associated with the Lynnwood Ridge District.
2. Is the market rate applied to the two and three bedroom units too high?
3. Is the vacancy rate that is applied to low?

Complainant's Position:

The assessment rental rates are \$950 per square foot for one bedroom, \$1225 per square foot for two bedroom, and \$1325 per square foot for three bedroom. The rent rolls indicated that as of July, 2009 the following actual rates were in effect: one bedroom - \$956 per month, two bedroom- \$1074 per month, and three bedroom - \$1184.09 per month. The CMHC Rental Report indicates the following rates for Zone 5 as of October, 2009: one bedroom- \$918 per month, two bedroom- \$976 per month, and three bedroom- \$870 per month. The Complainant indicated that above values are interpolated to provide an estimate as at July 1, 2009. As a result of the above information both the 2 bedroom and 3 bedroom are under-performing when compared to the assessed rental rates. The Complainant argued that the actual rental rates should be applied to the subjects' two and three bedroom units.

With regard to the vacancy rate, the City of Calgary applied a 2% rate. The actual 2009 performance for the subject indicated a vacancy 19.4%. In order to reduce the actual vacancy rate the landlord allows subsidy programs as an incentive to tenants. The Complainant requested that a 15% vacancy be applied. The Complainant indicated that there is an historic stigma attached to the property due to its location near a refinery that has since been closed. Neither the Complainant nor the owner are aware of any contamination at the subject site itself.

The Complainant Requested that the assessment be adjusted to \$30,610,000.

Respondent's Position:

The Respondent described the subject as a typical property in good condition. It has an excellent view with many walking trails and green spaces. The Respondent provided a complete Multi-tenant Request For Informant (ARFI) based on 2008 rental rates. The Respondent also provided two equity comparables. Like the subject, they were similar in ages to subject, all were in SE Calgary, all were assessed using a 2% vacancy allowance and GIM of 11. The comparables were substantially smaller than the subject.

Board's Decision:

The decision of the Board is to reduce the 2010 Assessment for the subject from \$38,640,000 to \$33,510,000.

Reasons:

1. The Board was persuaded that the subject is in an atypical property. The two and three bedroom units do not meet the typical rental rates. This is borne out when the actual rents are compared to the assessment month rents. Evidence of this is the owners willingness to provide incentives. The Board, however, did not adjust the rental rate.
2. Further the applied 2% vacancy rate is too low, in the opinion of the Board. The actual vacancy designed from the Rent Rolls for 2009 is 19.4%. In addition the CMHC Rental Market Report for Zone 5 (South East) shows an increasing trend for vacancy in that zone. The Board applied a 15% vacancy rate.
3. The subject is located in an area that is subject to a "stigma". This is a result of there having been a refinery in close proximity to the subject and the resulting possibility of contamination in the area.
4. The Board placed little weight on the Respondents comparables. The comparables are much smaller than the subject.
5. The Board is persuaded that the reduced assessment of \$33,510,000 is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 23 DAY OF NOVEMBER 2010.



T. Sadlowski
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.*