

**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:

582456 Alberta Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

Sherry Rourke, MEMBER

Jim Rankin, 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:	068556083
LOCATION ADDRESS:	101 – 14 Avenue S.E.
HEARING NUMBER:	57122
ASSESSMENT:	\$540,500

This complaint was heard on 10th day of December, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- 582456 Alberta Ltd. – Mr. D. MacRae and Mr. K. MacRae

Appeared on behalf of the Respondent:

- City of Calgary – D. Grandbois, Assessor

Property Description and Background:

The subject property is a 2403 square foot commercial space located on the corner of 14th Avenue and 1st. Street S.E. The year of construction is shown as 1981 and it is currently occupied and operated as a small grocery outlet. The owners believe the property is over assessed given its size and its location related problems.

Issues:

1. Are there location related influences that impact on the market value of the subject property?
2. What is the market value of the subject property for 2010?

Other Issues on the Complaint Form:

Other issues were raised in the Complaint filed with the Assessment Review Board (ARB) for 2010. The only issues that the parties brought forward in the hearing of this matter before the Composite Assessment Review Board (CARB) are those referred to above, therefore the CARB has not addressed any of the other issues initially raised on the complaint form.

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

1. **Negative Influences** - The CARB has determined that there are a number of specific influences which have a negative impact on the value of the subject property.
2. **Market Value** - The assessment for the subject property will be based on \$200 per square foot and the assessment is reduced to \$480,000 for 2010.

Negative Influences

Summary of the Party's Positions

The Complainant argued that there is a needle box across the street, prostitutes hang out in the area, cash corner is at the end of the block and a number of help organizations operate within a block or so of the subject. The Complainant argued that the City Assessor makes adjustments in the range of 5% - 10% for nearby mail boxes or footbridges therefore; there should be some relief for the negative issues affecting the subject property.

In addition the competition of a new Shoppers Drug Mart and the Sun Terra Market just a couple of blocks away have made it difficult for the tenant of the subject property to survive. The Complainant had planned to increase the rent by 1% in 2010 and pass on increase to the condo fees and the property taxes to the tenant. This is not going to be possible because of the economic conditions which have arisen over the preceding year or so. Over the past six months the owners have been paying a refund of \$680.00 per month to keep the tenant in place.

The permitted use of the subject will not allow for restaurants for example but only personal service operations such as the current use and something like a hair styling shop. This sort of tenant is not interested because of the negative influences in the area.

The Respondent stated that the assessment is already at the lowest value applied in the Beltline and given the new nearby projects, the subject value will be positively influenced as the economy improves and redevelopment continues in the area. The Respondent recognized the neighbourhood issues and the potential use restrictions but suggested there is also some offset because of the transition which is occurring in this area. The lowest value used in the Beltline has been assigned to the subject and this should meet some of the concerns of the Complainant.

Findings and Reasons

The parties used slightly different square footage numbers and therefore the CARB has chosen to use the assessment record number of 2403 square feet. The Complainant's review of the numerous negative neighbourhood influences and direct experiences of the owners in this regard were not challenged by the Respondent but rather were at least in part acknowledged by the Respondent. The Respondent indicated that such influences have not been directly recognized in the assessment. Given the testimony of the Complainant and the obvious actions the owners have taken to keep the property rented while other properties in the area are not in use, the CARB has concluded that some relief because of these influences should be recognized. The Board was somewhat convinced by the argument that "if mail boxes can be recognized as a negative influence then a needle box should be as well". The subject area has been in transition but apparently such redevelopment is on hold because of the down turn in the economy and therefore the potential positive impact of this transition may be delayed for some time.

Market Value**Summary of the Party's Positions**

The Complainant brought forward four 2009 sales comparables showing a range in selling prices from \$166 to \$208 per square foot. Based on these sales, the down turn in the economy and the negative neighbourhood influences the Complainant recommended that the assessment be reduced to \$450,000.

The Respondent indicated that 3 of the Complainant's sales were not disclosed, however it would not object so long as their response to these sales is considered by the CARB. The first sale appears to be a transaction between related firms as the names are similar. The second sale is newer space but is believed to be second floor space. The third and fourth sales are outside the Beltline area. The Respondent indicated that there are few sales and most similar properties are owner occupied, therefore it is difficult to gather sufficient data for the income approach to value. As a consequence, the Assessor has applied the direct sales approach and a value of \$225 to the subject property. Again, this value is the lowest per square foot value used in the beltline. The Respondent offered two sales in support of the \$225 per square foot value, both on 12th Street and 12th Avenue S.W. These sales showed values of \$443 and \$383 per square foot respectively. According to the Complainant the first sale is a high end property where \$100,000 had been spent on renovations before the sale and the second sale included an agreement to lease back at \$30 per square foot for three years.

Findings and Reasons

The CARB carefully considered the sales relied upon by the parties and in light of the arguments advanced by each regarding the sales brought forward by the other, the Board has concluded that it can not place much weight on this evidence. While not in the Beltline two of the Complainant's sales, one on Westwinds Dr. N.E. and one on Woodbine Boulevard S.W. appear to be similar in some respects and indicate values in the \$200 per square foot range.

Decision Summary

The CARB has indicated that it does recognize the need in this case to provide some relief respecting the subject assessment in view of the negative area influences and the restrictions respecting use. The CARB has therefore decided to reduce the base value for the subject property to approximately \$200 per square foot or a value of \$480,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF DECEMBER 2010.



P. Petry

Presiding Officer

An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:

470(1) *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.*

470(2) *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).*

470(3) *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*