

**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, Revised Statutes of Alberta 2000 (the Act).

between:

Metro West Developments Ltd. (as represented by Wernick Omura Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

E. Reuther, MEMBER

D. Pollard, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	071000202
LOCATION ADDRESS:	3012 17 AV SE
HEARING NUMBER:	63885
ASSESSMENT:	\$19,640,000

This complaint was heard on 13th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- Mr. B. Boccaccio (Wernick Omura Ltd.)

Appeared on behalf of the Respondent:

- Mr. R. Ford

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

There were no concerns with the composition of the Board.

There were no preliminary matters, the merit hearing proceeded.

During his presentation, the Complainant identified "operating costs" as an issue. He was advised that "operating costs" were not identified on the complaint form, and further that Section 9(1) of the Matters Relating to Assessment Complaints Regulation (MRAC) requires, "*A Composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form*". The Complainant agreed that it was not identified and that it should then not be addressed.

Property Description:

The subject property is a 6.15 acre site located in the Albert Park/Radisson Hts. community in SE Calgary. The site contains 3 multi tenant buildings with 79,162 sq. ft. of leasable area. The buildings were constructed in 1975, 1976 and 1978 and are considered to be of B to C+ quality. The Sub property use is CM203 Retail Shopping Centre – Neighbourhood Shopping Centre. The site is a corner lot on 17th Ave. SE.

Issues:

The Assessment Review Board Complaint Form identified one issue, namely: "Historical vacancy".

Complainant's Requested Value: \$15,300,000 (Complaint form); \$17,590,000 (C-1)

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

Issue : Historical vacancy

The Complainant 's Disclosure was submitted in two parts and is labelled C-1 and C-2.

The Complainant, at page 10 of C-1, provided a "Rent Roll 5 year Historical Vacancy" summary and noted that the 5 year average vacancy is 16.50%. He advised the subject was constructed in 1973 – 1976 and has not undergone any physical modifications, and that some of the CRU units offer no parking in front and have poor visibility and access. There have been no tenant improvements because of a lack of agreement between landlord and tenant as to who would pay for the improvements. He argued that the subject is in a less desirable location and is not typical, and that the City had previously recognized historical vacancies.

The Respondent's disclosure is labelled R-1.

The Respondent, at page 23, provided the 2011 Vacancy Rates Summary and noted the Vacancy allowance for Neighbourhood Shopping Centres in SE Calgary for 2011 assessments (as determined by their study) is 7.25% and that was the value utilized in the Income Approach

Valuation. He acknowledged that the owner had been reluctant to improve or alter the CRUs. The City acknowledged that the less desirable space had been accounted for by applying a lower Net Market Rent. He argued that the Complainant had no issues with the Net Market Rents applied or the Capitalization rate and therefore they must consider the subject typical and comparable.

The Board finds that the City has recognized the higher than typical vacancy in a portion of the shopping centre by applying a lower than typical Net Market Rent.

Board's Decision:

The 2011 Assessment is confirmed at \$19,640,000.

Reasons:

The owner has been reluctant to improve or alter the CRUs and thus has contributed to the undesirable nature of the subject. The City has recognized a portion of the mall as not being typical and reduced the Net Market rent which reduced the assessment.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF July 2011.


B. Horrocks
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. R1	Respondent Disclosure

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.*