

**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:

***Gerry Strongman Holdings Ltd. (as represented by Assessment Advisory Group Inc.)
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, H. Ang
Board Member 2, D. Julien***

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: 175503648

LOCATION ADDRESS: 250 Crowfoot Crescent NW

HEARING NUMBER: 63690

ASSESSMENT: 3,230,000.00

This complaint was heard on 2 day of September 2011 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Eight.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *B. Thompson*

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

There were no procedural or jurisdictional matters to be dealt with.

Property Description:

The subject consists of a multi-tenant retail shopping centre, located in the Crowfoot Power Centre in NW Calgary. The property comprises a two free standing buildings, containing a total net rentable area of 8,221 s.f. The land area is 0.57 acres. The complex was built circa 1990.

Issues:

Both parties used the income approach to value in the determination of their respective values. The incomes used by both parties are summarized as follows;

<u>Space</u>	<u>Area (in S.F.)</u>	<u>Rent (per s.f.)</u>	
		<u>Respondent</u>	<u>Complainant</u>
CRU 0-1,000 s.f.	968	\$34.00	\$24.00
CRU 1,001 -2,500 s.f.	4,192	\$32.00	\$22.00
CRU 2,501-6,000 s.f.	3,061	\$28.00	\$21.00

Part of the Complainant's submission centered on the apparent large increase in rent levels from 2010 to 2011.

There are no other issues.

Complainant's Requested Value: \$2,280,000.00, amended from \$2,160,000.

Evidence

In support of his argument, the Complainant submitted a current rent roll of the subject showing the two most current leases at \$21.00 and \$28.00 per s.f for spaces of 3,061 and 1,015 s.f. respectively. The Complainant also submitted one comparable, being the "Brick" Plaza at 9639-Macleod Trail SE. This comparable is an 86,289 s.f. neighbourhood shopping centre. The Complainant would not acknowledge that the subject is part of a power centre, and therefore has little in common with the comparable.

The Respondent submitted 12 lease comparables in the 1 to 1,000 s.f. category. Lease rates reflected a median rent of \$36.50 per s.f. In the 1,001 to 2,500 s.f. bracket, the Respondent

submitted 25 lease comparables, that displayed a median rent of \$35.00 per s.f. In the 2,501 to 6,000 s.f. range, the Respondent presented six comparables, reflecting a median of \$32.00 per s.f. In all three categories, all of the comparables are located in the Crowfoot Power Centre.

Board's Decision

The Board will not comment on the apparent increase in rent levels from the previous assessment year to the current year. It is only the current year's levels that are in question.

The valuation standard for land and improvements is market value, as defined by the Municipal Government Act. One of the primary criteria governing or affecting market value is location. The Board agrees with the Respondent that the subject is, in fact, part of the Crowfoot Power Centre, and therefore has more in common with the Respondent's comparables, than with the Complainant's. Simply by reason of the location, the Respondent's comparables are considered to be the most convincing.

The onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide convincing evidence to justify a change in the assessment.

In *Manyluk v. Calgary (City)*, MGB Board Order 036/03, it states;
"Every opportunity is provided to both [parties to present evidence and arguments in support of their positions. The ultimate burden of proof or onus rests on the appellant, at an assessment appeal, to convince the MGB their arguments, facts and evidence are more credible than that of the Respondent."

In *Kneehill (County) v. Alberta (Municipal Affairs, Linear Assessor)* (2004) Board Order MGB 001/04

"It is up to the parties who file a complaint on an assessment to put sufficient energy into proving that their allegations are well founded. In other words, the onus is upon the complaining party to provide sufficient evidence in order to prove their case."

Finally, in *Shirley-Anne Ruben et al v. City of Calgary* MGB 239/00 at page 15

"Furthermore, just as the onus is on the Appellants to provide prima facie proof that any particular assessment may be incorrect or inequitable, the Appellants have the initial burden of proving that the Respondent erred in the methodology adopted or implemented in connection with the assessments."

It is the opinion of this Board that a rent roll with no supporting analysis, and a single comparable, simply does not constitute convincing evidence. In the Board's opinion, the Complainant did not submit sufficient evidence to show that the assessed value is incorrect or that the assessment is prepared incorrectly.

The assessment is confirmed at \$3,230,000.

DATED AT THE CITY OF CALGARY THIS 13th DAY OF SEPTEMBER, 2011.


Jerry Zezulka
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

1. C1 Complainant Submission of Evidence,
2. R1 City of Calgary Assessment Brief

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.*

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Decision No. 1499/2011 - P			Roll No. 016202202	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	2, Power Centre	Stand alone	Income approach	Net market rent, lease rates