

**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:

***SCOTT'S TRUSTEE CORP (as represented by Linnell Taylor Assessment Strategies),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***R. Glenn, PRESIDING OFFICER
A Wong, MEMBER
E. Reuther, 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: 057033094

LOCATION ADDRESS: 1320 EDMONTON TRAIL NE

HEARING NUMBER: 64108

ASSESSMENT: \$ 891,500

This complaint was heard on the 19th day of September, 2011 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, located in Calgary, Alberta, in Boardroom 9.

Appeared on behalf of the Complainant: Joel Mayer (Agent)

Appeared on behalf of the Respondent: Shelly Turner (Assessor)

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

No issues of procedure or jurisdiction were raised.

Property Description:

The subject is a small free-standing single storey fast food retail property, comprising 1513 square feet, built in 1979 and rated "A" quality.

Issues:

Whether the subject building is properly assessed in light of queries regarding the Income Approach to value vs. the Highest and Best Use approach.

Complainant's Requested Value:

\$580,000

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

The following decision is very similar to CARB decision # 2303-2011-P, in that both the materials and the argument presented were very similar.

The Complainant argues simply that an Income Approach using market based rates, ratios and coefficients, including some business assessment rents, supports a lower assessment for the subject property. The basis for their complaint was that the Respondent had valued the subject property as only a vacant land site based on market value.

The Complainant argues that the subject must be recognized as an improved property with a fully functioning restaurant on-site, and further, that any suggestion of re-development is quite premature, and in any event, certainly not imminent. They carry on to argue that the subject is encumbered by a lease, and therefore, any re-development at this time would not be legally permissible.

The Complainant also presents market rent comparables, and a pro forma calculation to bolster their Income Approach argument. The result of the pro forma calculation supports their

requested value.

The Complainant also argues that the subject building has a projected 60 year lifespan, and so, at present, the building still has almost 30 years to go in its normal operational lifespan. The Complainant provides a number of comparables with ARFI's (Assessment Request for Information) and other rental information.

The Respondent argues that they have not performed a highest and best use study on the subject property, but states that what they are really looking for is market value. In other words, the real question to be answered is: what would the subject property likely sell for on the appropriate valuation day, being July 1st, 2010?

The Respondent goes on to argue that the Complainant called no credible evidence to actually demonstrate that the subject really is encumbered by a lease. The Respondent did provide a number of relevant comparable properties, in support of the assessment.

The real issue here is ultimately market value. The Board finds that the Complainant has failed to show that the Respondent's methodology did not represent proper market value. If the subject assessment is not shown to be incorrect, it must be confirmed.

Accordingly, the subject assessment is herewith confirmed in the amount of \$891,500.

Board's Decision:

The subject assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF OCTOBER, 2011.



R. Glenn
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
2. 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.

For MGB Administrative Use Only

Decision No. 2304-2011-P Roll No.057033094				
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Stand Alone	Highest and Best Use	Net Market Value