

**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-26.1, Section 460(4).

between:

Linnell Taylor Assessment Strategies, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, Presiding Officer
C. McEwen, Board Member
J. O'Hearn, Board 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: 031008592

LOCATION ADDRESS: 2735 – 39 Avenue NE, Calgary AB

HEARING NUMBER: 55984

ASSESSMENT: \$9,660,000

This complaint was heard on the 8th day of July, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- J. David Sheridan

Appeared on behalf of the Respondent:

- Jarrett Young / Daniel Lidgren

Property Description:

Three storey, 58,912 square foot suburban office building, constructed in 1981 on a 95,594 square foot site. Located in the Horizon district of northeast Calgary. Building was 100% vacant at the assessment valuation (July 1, 2009) and condition (December 31, 2009) dates.

Issues:

The Complainant raised the following matters in section 4 of the complaint form:
Assessment amount (No. 3 on form)

The Complainant also raised the following specific issues in section 5 of the Complaint form:

1. Assessed vacancy allowance is insufficient
2. Assessment is excessive
3. Assessment rates and ratios are incorrect

Complainant's Requested Value:

\$7,750,000

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

Issues:

All of the issues relate to the input factors into an income approach valuation which lead to the final assessment which is alleged to be excessive.

This decision will address the valuation and come to a single decision rather than attempt to isolate components for separate decisions.

The subject property has been assessed using the income approach. The following input factors went into the formula:

Market Net Rental Rate:	\$18.00 per square foot
Vacancy Rate:	15.0% (typical vacancy rate is 9%)
Operating Costs:	\$12.50 per square foot
Non-recoverable Expense ratio:	2.00%
Capitalization Rate:	8.00%

Quoting 289(2) of the Municipal Government Act, the Complainant opined that the assessor failed to reflect the property characteristics and condition as at December 31, 2009 by not recognizing the chronic and historic vacancy. The building had been vacant since the tenant's lease expired on June 27, 2008.

After discussion of the serious vacancy problem in this property, the Complainant provided a value suggestion made by the property owners: Utilize a base rent rate of between \$14.00 and \$15.00 per square foot with all the assessor's coefficients. This would result in an assessment of \$7,550,000.

Next, the Complainant considered rent rates and vacancy rates.

With respect to the rent rate, the Complainant stated that the \$18.00 rate used in the assessment was unchanged from the assessment for 2009 and, given changes in market conditions, was excessive. A table summarizing northeast suburban office leasing provided a range of rates from \$10.00 to \$15.00 per square foot, with commentary that many of the rates were "asking" rents would probably be reduced by 10% or so. The average rate from the sample was \$13.00 (rounded) but the Complainant chose \$15.00 per square foot as market rent.

Excerpts from published industry survey reports from national real estate agencies showed that the typical vacancy rate for northeast Calgary Class B buildings would have been 15% at or around July 1, 2009.

There was discussion about capitalization rates but in the end, the Complainant adopted the 8.00% rate used by the assessor in making the assessment.

When \$15.00 was inserted into the income approach formula, the indicated assessment was \$7,760,000. Although no direct sales comparison approach was undertaken, the Complainant provided data on a 2007 sale of a Beltline property that sold vacant. It was claimed that the sale at \$126.57 per square foot of building area supported the requested assessment of \$128.16 per square foot.

The Respondent provided a copy of a listing advertisement from Colliers International for the subject building. The advertisement was undated and it did not indicate an asking price for the property nor the asking rental rate for office space within the building. There was a notation on the advertisement showing that the third floor had been leased. The Respondent had no further information but offered that the lease would have taken place some time after the effective valuation and condition dates.

In the Respondent's evidence was a chart showing some lease details for space in four northeast Calgary office buildings. Photographs of the properties showed their similarities to the subject.

The Respondent criticized the Complainant's rent comparables as not being in office buildings but rather being office space in industrial bays or second floor offices in industrial properties. One sample was actually retail space in an industrial/retail building. Photographs of the Complainant's comparables were provided to show the dissimilarities between them and the subject. When

questioned, the Complainant agreed that six of his comparable properties were assessed as industrial properties and not as office buildings.

The Respondent did not address the vacancy issue in evidence before the Board other than to point out that the typical vacancy rate for northeast suburban office properties was 9.0% but that was increased to 15.0% due to the subject's vacancy situation.

Findings

In view of the above considerations, the CARB finds as follows with respect to the Issues:

Firstly, the Board notes that the Complainant has provided conflicting rates for the vacancy shortfall calculation. The assessment is based on a \$12.50 rate. The Complainant stated that the assessor's rate was adopted but in subsequent calculations, a rate of \$13.00 is used without any explanation or support for the change.

The CARB does not follow the logic of the Complainant. There was much discussion about the severe vacancy problem in the subject building. There was a point made that the problem could be *"mitigated by discounting, either through the estimated rent rate, an elevated vacancy allowance, a higher capitalization rate or a combination of these coefficients."*

After making the above statement, the Complainant provides an income approach calculation that is based only on the property owner's opinion of market rent for the building.

In the next calculation, the Complainant, after analyzing lease data, finds an average rent of \$13.00 per square foot but opts to use a rate of \$15.00 as a typical or market rent for the subject. The CARB wonders how an upward adjustment is warranted to the average rate when the contention is that the subject is an inferior property. From the industry survey reports, the Complainant concludes that the typical vacancy rate for office buildings in the northeast is 15.0%. Then, after making typical allowances for vacancy shortfall and non-recoverable expenses, the typical capitalization rate is applied. The CARB finds that this is an income approach application that the Complainant would use in valuing any Class B suburban office building in the northeast quadrant. There is nothing in the analysis that addresses the problems that would allegedly have a negative impact on the value of the subject property.

On closer examination of the rent rate data applied by the parties in their valuations, the CARB finds that the lease data offered by the Complainant is not comparable to the space in the subject three storey office building. Most of the data pertains to industrial or quasi-industrial properties and cannot be compared directly to an office building. The \$18.00 rate used by the Respondent is supported by rates from office buildings that are similar to the subject.

Board's Decision:

The Complainant demonstrated that the vacancy rate used by the assessor was typical for the market area. Rent rate analysis of the Complainant was based on properties that were not similar to the subject. After much discussion about how the subject property should be valued differently than other Class B northeast office buildings, the Complainant proceeded to value it based on typical rent, vacancy and capitalization rate. The CARB finds that the support for the valuation, even for normal Class B offices is lacking. There is no evidence that supports making any reduction to the

assessment of the subject property.

The 2010 assessment is confirmed at \$9,660,000.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF July 2010.


W. Kipp
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.*