

**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: 067072009**

**LOCATION ADDRESS: 704 – 7 Street SW, Calgary AB**

**HEARING NUMBER: 56216**

**ASSESSMENT: \$130,410,000**

This complaint was heard on the 9<sup>th</sup> 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:

- Harry Neumann

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

At the outset of the hearing, the Respondent requested that the CARB confirm the assessment on the ground that the Complainant's requested assessment was only 2.2% less than the \$130,410,000 actual assessment. As support for this request, the Respondent made reference to Section 10(3) of the *Matters Relating To Assessment And Taxation Regulation* (MRAT), AR 220/2004. Since the quality standards in MRAT require a median assessment ratio between 0.950 and 1.050, there are no grounds to reduce an assessment to an amount that is already within that tolerance range. The denial of a less than 5% reduction has been upheld by numerous Assessment Review Boards and the Alberta Municipal Government Board.

The Complainant stated that there had been no warning that this request would be made by the Respondent. Further, while fairness and equity are to be considered in deciding on an assessment amount, correctness is also important. While the reduction request may only be 2.2% of the original assessment, it is still \$3.41 million, which is a significant amount. Regardless of the requested reduction, a taxpayer has the right to be heard. That right is more important in 2010 than it might have been in past years because now, the taxpayer has no level of appeal above the CARB.

**Findings and Decision:**

The CARB finds that it is the assessor who is bound by MRAT 10(3), not the CARB. While assessment complaint/appeal tribunals might have made decisions regarding the minimum 5% reduction, there is no legislative grounds for holding that line. The taxpayer has a right to complain against an assessment and to be heard in a request that an assessment be corrected if it is incorrect.

The CARB decision is to proceed with the merit hearing.

**Property Description:**

The property that is the subject of this complaint is known as Elveden Centre, a downtown Calgary office and retail development comprising three office buildings (Elveden House, Iveagh House and Guinness House) and a ground floor retail level covering the full half block along the south side of 7 Avenue SW between 7 and 8 Streets SW. Built in 1961, Elveden Centre is one of the oldest major office building complexes in downtown. The 19,000 square foot land parcel accommodates the retail/office complex which contains a total rentable area of 451,703 square feet. There are 159 underground parking spaces.

**Issues:**

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

The Complainant also raised the following specific issues in section 5 of the Complaint form, beneath the overall reasons that the assessed value is incorrect and too high:

1. Assessment is inequitable
2. Assessment is excessive
3. Assessment rates and ratios are incorrect and inequitable

**Complainant's Requested Value:**

\$127,000,000

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

As a preamble to the issues, the Complainant pointed out characteristics of the property that make it unique in the downtown core:

- It is 48 years old
- It contains 451,703 square feet in three buildings
- The buildings have asbestos containing materials that have not been fully remediated
- The floor plans in two buildings are unique – they do not have central cores but rather the cores are along one perimeter wall, thus taking away from efficient demising of tenant spaces
- The downtown Plus 15 walkway system dead-ends at the complex
- There is no food court in the retail area
- Washrooms are ½ floor above or ½ floor below office floors
- The lack of provisions for handicapped persons precludes government or major corporations as potential tenants
- There is just one freight elevator for the entire property

In conclusion, the nature and age of the property make it unique when compared to its competition and for that reason, leasing within the property itself is sufficient to determine typical or market rents.

When questioned, the Complainant stated that there is no specific market evidence to enable accurate measurement of the impact of most of the property deficiencies on its market value, however, on a cumulative basis, there is a negative impact and that can be determined by comparing achievable rents in the property to those in other downtown Class B properties.

**Issue 1: Assessment is inequitable**

The 2010 assessment of Elveden Centre represents an average unit rate of \$288.71 per square foot of building floor area. A table of assessments for four other downtown buildings showed unit rates of \$277.97, \$288.30 and 291.88 per square foot for three Class B buildings and \$291.16 per square

foot for a Class A building, all of which are 10 to 20 years newer than Elveden Centre. These other buildings have superior floorplates and other characteristics such as Plus 15 connections that make them superior to the subject, yet there are only minor differences in the assessments on a unit basis.

Manulife House at 603 – 7 Avenue SW, in particular, is a smaller property with a smaller floorplate that is 11 years newer and has a better parking ratio is assessed at just \$278 per square foot.

Comparison of these equity comparables led the Complainant to an equitable unit rate of \$282 per square foot that would yield an assessment of \$127,300,000 for the subject.

The Respondent stated that comparisons of downtown office assessments on a unit of \$/square foot is unreliable because that unit rate can be impacted by factors such as parking. Accordingly, a table was provided setting out a list of Class B buildings in market area DT2 where office space had been assessed based on a rental rate of \$26 per square foot, the same rate used in the subject assessment.

## **Findings**

The CARB finds as follows with respect to Issue 1:

The Manulife House equity comparable provided by the Complainant is interesting. It is also interesting that the Respondent does not include it in its list of comparables. The Complainant points out that Manulife House has a “more competitive parking ratio” but no comments are made about parking ratios in the other comparables. The impact on value of variances in retail area ratios and floorplate sizes were not addressed. Two of the comparables have floorplate sizes of less than 7,000 square feet. The subject averages 9,856 square feet. The two remaining comparables’ floorplates are 13,010 and 15,327 square feet. These are significant differences and deserve some analysis when making comparisons.

The Respondent’s equity evidence comprises a list of other properties wherein office space is assessed using the same \$26 rent rate as the subject. To some extent, this eliminates the need to address the impact on value of parking, retail area and so on, however it does leave questions about overall comparability of properties.

Based on the evidence before it, the CARB is unable to make any change to the assessment related to the equity issue.

## **Issue 2: Assessment is Excessive**

This is a “general” issue and will be covered by the decision regarding equity and valuation rates and ratios.

## **Issue 3: Assessment rates and ratios are incorrect and inequitable**

The Complainant did not take issue with any of the input coefficients into the income approach formula, other than the rent rate. After determining an appropriate rent rate for the subject, based on rents for space within the property itself, the vacancy allowance was set to correspond to that in the subject. While this is different than the vacancy allowance made by the assessor, it is also lower.

Six office leases and two retail leases were reported within the subject property. All had occurred

during 2009. Indicated retail rents were \$18.00 and \$14.00 per square foot. Office rents ranged from \$13.50 to \$28.00 per square foot. \$13.50 is far below the five other office rents. If it is excluded, the weighted mean is \$25.59 per square foot. The weighted mean of the two retail rates is \$14.97. With regard to all leases in the property, the Complainant finds weighted mean rates of \$19.11 for retail space and \$20.04 for offices.

On the ground that the assessment department prefers medians to weighted mean averages, the Complainant settled on \$16.00 per square foot for retail space and \$24.00 per square foot for office space as being typical for the Elveden Centre property.

When these rates were put into the income approach formula, the indicated assessment, using an 8.0% capitalization rate, was \$126,970,600.

The assessment was based on a \$26.00 per square foot rent rate for the offices and a \$21.00 per square foot rate for retail space.

The Respondent selected seven 2008-2009 leases in the subject office buildings. Of these, the mean average rent rate was \$27.57 and the weighted mean average was \$27.56 per square foot. A table of rent rates from industry survey publications confirmed that Class B office rents in the subject market area ranged from \$24 to \$26 per square foot. A rent survey in the DT2 market area found 2008-2009 lease transactions for Class B buildings. 24 leases in seven properties along with seven transactions in the subject were reported. The weighted mean average for all 31 leases was \$27.80 per square foot. In the opinion of the Respondent, this was overwhelming support for the office rental rate of \$26.00 used in the subject assessment.

#### **Findings:**

The CARB has only two lease transactions in the retail area from the Complainant and there was concern over whether these were new tenant leases or renewals or step-ups in older leases. There was no retail rent evidence from the Respondent.

There was ample evidence on office rents. The evidence of the Respondent indicated that the \$26.00 rent rate was below market indications. The weighted mean of \$25.59 per square foot from the Complainant's best evidence of leases from within Elveden Centre is also considered to support the \$26 rate. The Board does not understand the Complainant's shift to "median" average from "weighted mean" on the pretext that the city assessment department prefers medians when the Respondent's evidence does, in fact, rely on weighted mean averages.

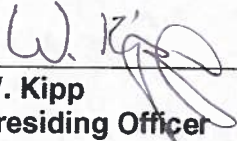
#### **Board's Decision:**

The primary matter under dispute was the office rent rate used in the income approach formula. After weighing all of the rent evidence, the CARB finds that the lease data from both parties tends to support the \$26.00 rate that was used in the assessment calculation. There was insufficient evidence upon which to alter the retail space rent.

While there were minor changes made to the vacancy rate by the Complainant, the end result, if the \$26.00 office rent and \$21.00 retail rent rates are used, is insignificant.

The 2010 assessment is confirmed at \$130,410,000.

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

  
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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.*