

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Assessment Advisory Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, T Golden
Board Member, R Kodak
Board Member, D Julien***

This is a complaint to the Calgary Assessment Review Board in respect of Property/Business assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBERS:	067188003,	067187609,	067187500,	067187708
LOCATION ADDRESSES:	818 16 Av. SW, 812 16 Av. SW	808 16 Av. SW,	802 16 Av. SW,	
HEARING NUMBERS:	58780,	58782,	58784,	58786
ASSESSMENT:	\$1,390,000 (818 16 Av. SW)	\$3,370,000 (808 16 Av. SW)	\$3,430,000 (802 16 Av. SW)	\$4,820,000 (812 16 Av. SW)

This complaint was heard on 5 day of August, 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:

- *S Cobb*

Appeared on behalf of the Respondent:

- *C. Keough*

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

Before the commencement of the hearing both parties agreed that the four subject properties are adjoining properties designed as a single operating unit under a single ownership. Except in the case of 808 16 Av. which has an additional issue, the arguments in each case are the same. Evidence from both parties regarding the four properties is contained in the same document. Discussions before the Board will concern all properties at same time. The Board agreed to hear all 4 properties at once.

Property Description:

The subject properties are four, two story buildings that contain retail on the main level and offices on the second level. Outside improvements make the four buildings look as if they were one structure. The structures were built in the Beltline Area in 1959, 1964, 1965 and 1997.

Issues:

- 1) Is the cap rate applied to 808 16 Av. equitable?
- 2) Is the retail rental rate applied to the subjects appropriate?
- 3) Is the office rental rate applied to the subject properties appropriate?
- 4) What is the correct vacancy rate to apply to the subject?

Complainant's Requested Value:

\$1,320,000.00 (818 16 Av. SW)	\$2,350,000.00 (808 16 Av. SW)
\$2,810,000.00 (802 16 Av. SW)	\$3,920,000.00 (812 16 Av. SW)

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

- 1) The cap rate as applied to 808 16 Av. is inequitable and should be adjusted to 7.5 % and the assessment based on a cap rate adjustment be \$3,260,000.00.

The complainant pointed out that the cap rate on 808 16 Av was established at 7.25 when the other three properties had a rate of 7.5%. In the opinion of the complainant all structures operated in a similar fashion and should be subject to the same market pressures and result in the same cap rate.

There was no response to this testimony and no explanation for the use of a 7.25% cap rate.

The Board agreed with the complainant's position that the cap rate should be set at 7.5% and the recalculated value of \$3,260,000.00 was provided.

- 2) Retail rental rates are confirmed at between \$32.00 and \$36.00.

Although the complaint form contained a general complaint regarding rental rates at the hearing the complainant only contested the office rate agreeing with the retail rental rate. Retail rates were introduced by the City as part of a "what if" scenario that if followed to its conclusion would have seen the assessment increase. The Board disregarded that portion of the City testimony and agreed to not adjust the retail rental rate. Although summary in the City package requested an increase in assessment the City testimony clarified that the request before the Board is confirmation and not an increase in assessment.

- 3) Office rental rates are confirmed

The complainant asked the Board to reduce the office rental rate from the City level of \$23.00 to a suggested rate of \$15.00. The argument was supported using three methods; firstly information on Assessment Request for Information (ARFIs) completed for the subject properties, secondly data from one comparable was submitted and finally a reference to a third party report. Using 2010 ARFIs the complainant demonstrated that recent leases signed in the subject were around \$15.00 per sq ft. Supporting the \$15.00 request the complainant presented a comparable at 325 10 Av SW. This building was argued to be in a superior location closer to the downtown and near the +15 which also provides access to the downtown. Portions of a 2008 ARFI for the comparable were submitted demonstrating second and third story walk up offices rental rates of +- \$11.00 to \$16.00 per sq ft. A report from Avison Young was used and in a graph showed the asking price for C class office space to be \$15.00

The Respondent pointed out to the Board that the 2009 ARFI for the subject is the applicable ARFI to use for the tax year. Rental rates were established using rental information from a number of ARFIs submitted to the City and a table of 11 sales were submitted in support of the rental rate.

The Board noted that the ARFI used by the complainant was for the 2010 tax year and represents a time period after the assessment date and may in fact represent changing market conditions occurring in 2010. An ARFI submitted by the City for 2009 shows some rental rates of \$13.00 but it is noted the subject has also attracted rates of \$19.00 to \$22.00. The comparable used by the complainant was not considered similar to the subjects as it is a 3 or 4 story structure constructed around 1913 to 1915 with no retail component. It was noted that only parts of the comparable's ARFI was reproduced further weakening the evidence. The supporting third party report is a general report and contains insufficient clarification of the statistics to justify an increase in the rental rate and therefore this evidence was given little weight. It is understood that the City comparables are questionable given the types of structures included in the analysis but are together with the ARFI information on the subject tend to support the assessment. The City evidence was determined to be stronger as compared to the information provided by the complainant.

- 4) Vacancy rates are confirmed.

The complainant asked the Board to increase the vacancy rate from the City level of 8.5% to a suggested vacancy rate of 12%. The argument was supported using two methods; firstly the 2010 ARFIs completed for the subject properties, secondly data from third party reports. Using the 2010 ARFIs the complainant intended to demonstrate that vacancy had increased through 2009 to 60%. This shows a trend through the year and at the assessment date would be in the order of 12%. The Board was directed to a discussion of published third party documents that reported beltline office vacancy rates to be between 8.7% and 21%.

The Respondent explained the 8.5% vacancy rate was adopted after a study prepared by the City. A table from the study entitled Market Trends for the Beltline a second quarter vacancy report demonstrated an 8.8% vacancy and the adopted vacancy rate was largely based on this information.

In support of the vacancy rate the respondent firstly pointed to the 2009 ARFIs for the subject properties, that indicates the vacancy in the subject in April of 2009 the time of preparation of the document to be 7.1%. Secondly the City also presented third party reports showing two sources that reported a second quarter vacancy rate in the belt line to be 7% and SW Beltline vacancy to be 8.68%.

The Board was persuaded by the evidence of the City that the vacancy at the assessment date is 8.5%. Most persuasive is the vacancy from the ARFIs at 7.1%. This together with the City study supports the vacancy rate. The Board heard a great deal of discussion of the third party data and these third party reports altogether gave a very wide range of reported vacancies. However the City's third party evidence was for the more specific SW area of the Beltline and therefore given some weight.

Board's Decision:

The assessment is set at:

818 16 Av. SW	\$1,390,000.00
808 16 Av. SW	\$3,260,000.00
802 16 Av. SW	\$3,430,000.00
812 16 Av. SW	\$4,820,000.00

DATED AT THE CITY OF CALGARY THIS 10 DAY OF August 2010.



for **T. Golden**
Presiding Officer
TG/nd

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.*