

**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(4).

between:

Colliers International Realty Advisors, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Mowbrey, PRESIDING OFFICER

A. Blake, MEMBER

D. Pollard, 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: 067094706

LOCATION ADDRESS: 1015 4th St. SW

HEARING NUMBER: 58694

ASSESSMENT: \$27,980,000

This complaint was heard on the 8th day of September, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 03.

Appeared on behalf of the Complainant:

- S. Meiklejohn

- Appeared on behalf of the Respondent:

- D. McCord

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

There were no procedural or jurisdictional matters.

Upon questioning by the Presiding Officer, the parties present indicated they had no objection to the composition of the Board. In addition, the Board indicated they had no bias on this file.

Property Description:

The subject property is a mid-rise office building that was constructed in 1978 and is located at 1054 4th ST SW in the Beltline area of Calgary. The total size is 114,582 SQ.FT, with 1,271 SQ.FT of retail and 112,943 SQ.FT. of office and is 12 storeys. In addition, there are 77 parking stalls.

Issues:

1. What is the correct rental rate applied to the office portion of the building?
2. What is the correct rate to be applied to the non-recoverable operating costs?
3. What is the correct cap rate to be applied to the net operating income?

Complainant's Requested Value:

\$20,960,000.

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

1. What is the correct rental rate applied to the office portion of the building?

The Complainant argued that the subject property should be assessed using a \$17 per square foot (PSF), instead of the \$20 PSF that the City of Calgary uses. The Complainant produced evidence for the Board that showed a *post facto* lease on a comparable property was leased at \$15 PSF. (Exhibit C-1 page 8). The Complainant stated although the lease is *post facto*, the negotiation of the lease typically occurs 3 to 6 months prior to the lease being signed. The Complainant produced a rent roll from the owner as at December 31, 2009. (Exhibit C-1 pages 11-14).

The Respondent produced lease evidence to the Board showing a number of leases signed

between October 1st 2008 and March 1st 2009. There were 3 leases signed in this period for a mean of \$28.17, a median of \$28.00 and a weighted average of \$27.11 PSF. The Respondent noted the comparable building across the street had 9 leases in the one year period that had a mean of \$21.89, a median of \$23.00 and a weighted average of \$20.62 PSF. Combining the two buildings produced a weighted average of \$23.87 PSF. (Exhibit R-1 page 34). The Respondent noted that with the Colliers leases that 3 of the 4 were *post facto* and the City would not have that information available for assessment purposes in the current year. Three of the leases were renewals for long term tenants and the fourth lease was a sub lease, whereas the head lease was for \$23.00 PSF.

The Board was persuaded by the Respondent's lease analysis (Exhibit R-1 page 36/39) detailing a number of leases in the one year prior to valuation date on July 1st 2009. These leases produced a weighted average of \$19.43 PSF, which approximates the assessment of \$20.00 PSF.

The Board put little weight on the one *post facto* sub lease of \$15.00 PSF as representative of the subject property, as the head lease continues to pay \$23.00 PSF. The Complainant produced only the one *post facto* lease as market comparable evidence to the subject property.

The Board accepts the typical lease rate of \$20.00 PSF put forth by the City and can see no reason to lower the lease rate to \$17.00 PSF requested by the Complainant.

2. What is the correct rate to be applied to the non-recoverable costs?

The Complainant stated that the non-recoverable operating costs should be \$13.35 PSF as evidenced by the \$10.48 operating costs and the tax of \$2.87 PSF for a total of \$13.35 PSF based on the rent roll at December 31st 2009.

The Respondent gave evidence to the Board that a \$12.00 PSF non-operating cost is typical for this type of building and the rate had come from a number of ARFI'S. (Assessment request for information).

The Board accepts the \$12.00 PSF as typical and notes the Complainant's evidence regarding the non-operating cost is site specific.

3. What is the correct cap rate to be applied to the net operating income?

The Complainant presented beltline office sales to the Board showing cap rates of 8.02%, 7.46% and 8.07%. (Exhibit C- page 15). The Complainant stated these sales were most comparable to the subject property in terms of location, vintage and direct competition. The Complainant advised the Board that the salient information on the three sales could be found on C-1 pages 16/17 sale 1, pages 26/27 sale 2 and pages 41/42 for sale 3. The Complainant is requesting an 8.5% cap rate to be applied to the assessment.

The Respondent presented a 2010 beltline capitalization rate study to the Board showing how the 2010 typical cap rate of 7.5% was arrived. The Respondent noted that two sales were used to develop the cap rate. The Respondent advised the Board that sale number two was the most comparable to the subject property. (Highstreet House 933 17 AV SW). The sale was very close to the valuation date and the comparable property had a cap rate of 7.52%. (Exhibit R-1 page 39). The Respondent reviewed the Complainant's sales with the Board. (Exhibit R-1 page 64). The Respondent noted that the sale price per square foot (SPPSF) was substantially higher than the assessment per square foot. (Sale number 1. SPPSF \$321.38 versus AsmtPSF \$246.31, sale number 2. SPPSF \$335.61 versus AsmtPSF \$234.92 and sale 3. SPPSF \$317.39 versus \$285.07).

The Respondent advised the Board that the owner on sale number one had reported to the City that the cap rate was 4.82% on the request for information regarding the sale of the property. (Exhibit R-1 page 63, sub. 25).

The Respondent noted that the owner on sale number two had reported to the City that the cap rate was 6.56% on the request for information regarding the sale of the property. (Exhibit R-1 page 66, sub. 25).

The Respondent advised the Board that sale number three was common to both the Complainant and the Respondent. (340 12 AV SW). The Respondent showed a cap rate of 6.45% and the Complainant showed a cap rate of 8.02%.

The Board was persuaded by the Respondent's cap study. (Exhibit R-1 page 42). The study showed how the typical cap rate was developed. In addition, the Board was persuaded by the sale that was common to both parties. While the Complainant showed 8.02%, the Respondent showed 6.45%, a third party source (RealNet) showed 6.8%.

The Board was persuaded that the sales price per square foot is substantially higher than the assessment per square foot as evidenced on R-1 page 60).

In addition, there was no market evidence to show the Board the \$178.75 PSF requested by the Complainant for the subject property in the beltline was fair and equitable. The Board finds the assessment is fair and equitable.

Board's Decision:

The assessment of the subject property is confirmed at \$27,980,000.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF September 2010.


R. Mowbrey
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.*

Exhibits:

C-1 Evidence of the Complainant (56 pages).

R-1 Evidence of the Respondent (167 page).