

**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:

***P. Irwin, PRESIDING OFFICER
J. Rankin, MEMBER***

A hearing was convened on September 9th, 2010 in Boardroom 12 at the office of the Calgary Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta in respect of the Property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	080031701
LOCATION ADDRESS:	1401 17 AV SW
HEARING NUMBER:	56632
ASSESSMENT:	\$4,060,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is an owner-occupied branch of the Bank of Nova Scotia, located on the Red Mile in the Beltline District. The gross rentable areas in the building are: (i) ground floor: 8,175 sf; (ii) mezzanine: 3,080 sf; and (iii) basement: 8,000 sf. This is a commercial property zoned as C-COR 1. The market value was determined by using the income approach to value.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

There were no objections to the composition of the Board, nor were there any jurisdictional matters.

A possible preliminary matter was raised. The original Complainant, Mr. Paul Nasser at Scotiabank, engaged the services of Mr. Miecklejohn on the due date for rebuttal evidence. Was Mr. Miecklejohn permitted to present the initial disclosure submission, as he wasn't on the original list? Also, would the Board accept rebuttal from Collier's? While the possibility of a postponement was raised, the absence of exceptional circumstances precluded a postponement. The Respondent agreed to proceeding with the hearing with Mr. Miecklejohn representing the Complainant, with the understanding that there would be no new evidence in rebuttal.

PART C: MATTERS/ ISSUES

Has the rental rate for the 2nd floor (mezzanine) space been assessed correctly as of the July 1, 2009 valuation date ?

The Complaint Form stated that the rental rates should match the business assessment rental rates and the only issue was the 2nd floor rental rate. As the business assessment for the 2nd floor was \$15 per sf, the Complainant was requesting that the same rate be applied to the property assessment.

The Complainant provided a disclosure package that included the 2010 Business Assessment Notice, a calculation sheet showing the effect on the assessment of a 2nd floor rental rate of \$15 per sf (instead of \$30 per sf) and front and side photographs of the subject building. The Board was advised that the second floor office space is used by the region for training, meetings and other related functions and not occupied on a regular basis. He stated that there are no windows on the second floor. The Complainant had no issue with the income approach for property assessment but argued that the rental rate should be the same as the business tax assessment.

The Respondent's disclosure package included various reports, maps, photos and tables. The 2010 Assessment Comparable Report provided data on four banks (at \$30 per sf) and an Alberta Treasury Branch (at \$40), and these supported the \$30 ground floor rate (but did not provide any 2nd floor data). The 2010 Lease Comparable report showed lease rates ranging from \$42 to \$55, although it did not indicate any values for mezzanine space. There was no clarification on how the assessor determined the assessment rates from the lease rates. One Business Assessment report on another Scotia bank property showed a \$28 rate for both the main floor and the second floor. No explanation was given to explain the \$28 rate, compared to the subject's \$30 rate. The photo did not show any second floor windows, although there was only one view of it.

The Respondent advised the Board that he had been denied access to inspect the 2nd floor area and take photographs. It therefore had no information on windows, skylites, tenant improvements, etc. The Respondent felt that the onus was on the Complainant to show that the assessment should be \$15 per sf or that it shouldn't be \$30 per sf.

Board's Findings and Reasons in Respect of Each Matter or Issue:


While the Respondent provided one comparable to support the same assessment for main floor bank space compared to 2nd floor space, the Board noted that it was only one comparable. Further,

the rate for the 2nd floor at the other bank was \$28 per sf, not \$30 per sf. In the final analysis, the Board considered that there should not be a difference between the Business assessment and the Property assessment for the 2nd floor of the Bank, i.e. the 2nd floor rate should be \$15 per sf for the 2010 assessment.

PART D: FINAL DECISION(S)

The assessment of the 2nd floor of the building is reduced to \$15 per sf and this in turn reduced the overall 2010 assessment to \$3,509,000 (truncated).

DATED AT THE CITY OF CALGARY THIS 8th DAY OF OCTOBER 2010.


 P. Irwin
 Presiding Officer

APPENDIX "A" : ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

Scott Meiklejohn	representing Colliers International Realty Advisors Inc.
Dan Satoor	Assessor, City of Calgary

APPENDIX "B" : DOCUMENTS RECEIVED BY THE ASSESSMENT REVIEW BOARD

Document C – 1	Complainant's Brief (considered)
Document R – 1	Respondent's Brief (considered)

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.*