

**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, Revised Statutes of Alberta 2000 (the Act).

**between:**

***KNIGHTVIEW DEVELOPMENTS INC., COMPLAINANT  
(Represented by Assessment Advisory Group Inc.)***

**and**

***The CITY OF CALGARY, RESPONDENT***

**before:**

***Board Chair P. COLGATE  
Board Member P. GRACE  
Board Member R. DESCHAIINE***

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

**ROLL NUMBER: 067098608**

**LOCATION ADDRESS: 640 12 AVENUE SW**

**HEARING NUMBER: 67820**

**ASSESSMENT: \$4,610,000.00**

This complaint was heard on 24 day of June, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- Terry Youn, Assessment Advisory Group Inc. – Representing Knightview Development Inc.

Appeared on behalf of the Respondent:

- Lawrence Wong – Representing the City of Calgary

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter.

**Preliminary Matter:**

No preliminary matters were raised, so the Board proceeded to hear the merits of the complaint.

**Property Description:**

The subject property, identified as Epique House, is a multi-storey, B quality, commercial office/retail building (CS1025) located at the south east corner of 12th Avenue SW and 6<sup>th</sup> Streets SW in the Beltline District. The structure, situated on a 0.26 acre parcel, has a total area of 33,344 square feet distributed into 32,776 square feet of office space above grade and 568 square feet of office space below grade. There are 6 assessed parking stalls on the site. The building was constructed in 1964. The subject property has been assessed, based upon the Income Approach, at \$4,610,000.00 or \$138.26 per square foot.

**Complainant's Requested Value:** \$3,300,000.00

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

In the interest of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

Both the Complainant and the Respondent submitted background material in the form of photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

**ISSUE 1: Is the subject property correctly designated a B class building?****Complainant's Evidence:**

The Complainant requested a net rental rate "*which is in line with the C quality*". (C1, Pg. 2)

**Respondent's Evidence:**

The Respondent's stated position was there was a lack of evidence by the Complainant to support a change to the class and in his opinion the building was correctly classified.

**Findings of the Board**

The Board found no market evidence or equity comparables to warrant a change to the class designation of the subject property.

**ISSUE 2: Are the parameters applied to the subject property correct and reflective of actual rates for the subject property?**

To support the requested value the Complainant examined the individual parameters applied to the subject property, specific emphasis on Net Rental Rate, Operating Costs/Vacancy Shortfall and Capitalization Rate for which rate changes were requested.

**Complainant's Submission**

The Complainant submitted that only 1600 square feet of the subject property were currently occupied by the owner. The balance of the building has been vacant since May 2011 and it is anticipated the space will not be rented until the end of 2012. (C1, Pg. 2 & 19)

**Net Rental Rate – Office Space**

The Complainant requested a net rental rate of \$12.00 per square foot for the office space above grade. No change was requested for the office space below grade or the parking stalls.

The Complainant states the occupied space is "rented to the owner at a Gross \$10.00, with the owner paying all the operating costs. The City \$13 is not taking into account the condition of the building and therefore the challenges in attracting new tenants. We have used a \$12 rate, which is line with the C quality". (C1, Pg. 3)

The Complainant submitted a copy of an email advising the space was vacant "except for the office space the owner occupied". (C1, Pg. 19) The email further provided the following information with respect to the occupied space:

1600 Sq. Ft.	
Annual Rent	\$17,340.00
Operating Costs	\$1200.00 per month

### Operating Costs/Vacancy Shortfall

The email submitted by the Complainant between Joy Southwood and Eila McGovern of the Assessment Advisory Group, dated May 9, 2012 stated –

“The owner states that this building has been empty since May 24, 2011 and will probably stay vacant, at least until the end of this year.”

The Complainant submitted a copy of a March 31, 2011 letter from Knightview Development Inc to Equinox Engineering Ltd. The letter notified Equinox Engineering Ltd. their tenancy in 610 12 Avenue SW was terminated effective May 31, 2011. (C3, Pg. 4)

In response to a question from the Board the Complainant testified Equinox Engineering Ltd was a major tenant in the building occupying in excess of 20,000 square feet.

The Complainant submitted the owner is paying \$9.00 per square foot for operating costs, as per the email. (C1, Pg. 19)

### Capitalization Rate

The Complainant entered the following statement – “The City used a cap rate of 8.5% last year with a \$14 typical rent. This year, the City reduced the typical rent to \$13 and lowered the cap rate to 8%. This does not make, if the rent is lower the cap rate should increase. Therefore we increased the cap rate to 8.75%”. (C1, Pg. 3)

Based upon the requested changes the Complainant submitted a calculation table to show the requested assessment of \$3,306,497.00. (C1, Pg. 4)

### Respondent's Submission:

#### Net Rental Rate – Office Space

The Respondent provided no evidence as to the net rental rate except for the “Non-residential Properties – Income Approach Valuation” form (R1, Pg. 5-6) which showed the net rental rates as:

Sub Component	Market Net Rental Rate
Parking Stalls	2,400.00
Office – below grade	8.00
Office Space South West	13.00

The Respondent stated the subject property had been classified as a B class and the typical rates had been applied to determine the assessment.

### Operating Costs/Vacancy Shortfall

The Respondent provided no evidence as to the operating costs except for the “Non-residential Properties – Income Approach Valuation” form (R1, Pg. 5-6) which showed the typical operating costs as applied to the subject:

Sub Component	Operating Costs
Parking Stalls	0.00
Office – below grade	12.00
Office Space South West	12.00

### Capitalization Rate

The Respondent submitted a “2012 Beltline Capitalization Rates” table to show the currently applied City of Calgary rates and the comparison with third party published rates.

CLASS	CITY OF CALGARY	CBRE	COLLIERS
A	7.25%	6.25%-7.00%	6.25%-7.00%
B	7.75%	7.75%-8.25%	7.25%-8.00%
C	7.75%		

The capitalization rate applied to the subject property was 7.75%.

### **Findings of the Board**

#### Net Rental Rate – Office Space

The Complainant’s rebuttal document contained the handwritten notation “This building requires renovation to get normal market rates.” The Board found, except for some unclear photos, the Complainant had failed to substantiate the claim the building was not in marketable condition. The lack of rental history, to show the subject property may not have been receiving typical market rents prior to the termination of the leases in 2011, did not aid in the Complainants argument.

#### Operating Costs/Vacancy Shortfall

The Board found the high vacancy in the subject building was a result not of market conditions but a management decision to terminate leases in order to “undertake the renovations in this building once an agreement with a tenant is in place and know the tenants requirements.”

The Complainant’s request to maintain the vacancy rate at 10% but to double the occupancy cost was not supported through any market evidence. The Complainant failed to show the typical operating costs were not representative.

#### Capitalization Rate

The request by the Complainant to increase the capitalization rate was not supported by any sales analysis to show a change was supported in the market place.

### **Board’s Decision:**

The Board found the Complainant failed to provide market evidence in support of any of the requested changes to the assessment, and a change to the assessment was not justified.

The Board found guidance in prior decisions with respect to the decision on the subject

property.

Imperial Parking Ltd. v. Calgary (City) [2002] Board Order: MGB 140/02 at paragraphs 37:

"in the absence of any substantive evidence that would lead a reasonable person to conclude that there might be a problem of equity with the subject assessments, the MGB must agree with the Respondent that the Appellant has failed the onus test. In failing the onus test, the MGB must conclude the City correctly assessed the subject property."

Kneehill (County) v. Alberta (Municipal Affairs, Linear Assessor) [2004] Board Order MGB 001/04.

"It is up to the parties who file a complaint on an assessment to put sufficient energy into proving their allegations are well founded. In other words, the onus is upon the complaining party to provide sufficient evidence in order to prove their case."

The Decision of the Board confirmed the assessment at \$4,610,000.00.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF July 2012.



PHILIP COLGATE  
Presiding Officer

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant's Rebuttal
3. R1	Respondent's Disclosure

*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.*

**FOR ADMINISTRATIVE USE**

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Stand Alone Low Rise	Income Approach	- Net Market Rent - Capitalization Rate - Classification - Vacancy - Operating Costs-

**LEGISLATIVE REQUIREMENTS****MUNICIPAL GOVERNMENT ACT****Chapter M-26**

1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

**Division 1  
Preparation of Assessments****Preparing annual assessments**

**285** Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

**289(2)** Each assessment must reflect (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

**ALBERTA REGULATION 220/2004  
Municipal Government Act  
MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) "assessment year" means the year prior to the taxation year;

**Part 1  
Standards of Assessment  
Mass appraisal**

**2** An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

**Valuation date**

**3** Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

**Division 2 Decisions of Assessment Review Boards****Decisions of assessment review board**

**467(3)** An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.