

**CALGARY
COMPOSITE 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

The Manufacturers Life Insurance Company (as represented by Colliers International Realty Advisors Inc.), COMPLAINANT

And

The City Of Calgary, RESPONDENT

Before:

***M. Chilibeck, PRESIDING OFFICER
R. Deschaine, MEMBER
A. Wong, MEMBER***

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 2012 Assessment Roll as follows:

ROLL NUMBER: 068134600

LOCATION ADDRESS: 1122 – 4 ST SW

HEARING NUMBER: 66485

ASSESSMENT: \$18,950,000

[1] This complaint was heard by the Composite Assessment Review Board on 18th day of July, 2012 in Boardroom 11 on Floor Number 3 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- C. Hartley

Appeared on behalf of the Respondent:

- L. Wong

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

[2] Neither party raised any objections to a member of the Board hearing the subject complaint.

Procedural Matter

[3] The Complainant requested that the Respondent's disclosure of evidence not be accepted because they received it after the due date which is not in accordance with section 8(2)(b) of the Matters Relating to Assessment Complaints Regulation (MRAC). The Complainant explained the Respondent attempted to file their disclosure of evidence by email on July 3, 2012 however it was rejected because it exceeded the maximum size allowed by Complainant's email system. On the same date an email dated July 3 was sent by the Complainant's email system to "Tax, Calgary" and the Respondent's assessor, Lawrence Wong, the sender of the disclosure, advising that the email was rejected due to size limits. Also the Complainant contacted the Respondent Assessor by telephone advising him of the issue. The Respondent advised the Board that he did not realize the disclosure was not received by the Complainant until an email was received from the Complainant on July 10. On July 10 the Respondent emailed the disclosure in four parts.

[4] The Board finds that the Respondent's evidence was not disclosed in time. The emails sent by the Complainant late in the day on July 3rd advising of the rejection clearly show they were sent to the sender of the disclosure. The Board believes the disclosure could have been made by the Respondent the following day, not seven days later. In this case the Respondent was made aware of the disclosure issue in two ways, by email and by telephone but chose to submit seven days later.

[5] The Board decided that the Respondent's evidence submission will not be accepted and marked as an exhibit, that is, the Board will not hear any evidence from the Respondent because it has not been disclosed in accordance with section 8 of MRAC.

Property Description:

[6] The subject property is a class B, commercial office building located in the Beltline district and sits in between Fifth Street and Sixth Street on 12th Avenue in the Southwest (SW) quadrant of The City of Calgary. This parcel is subject to Land Use Designation of CC-X (City Centre Mixed Use) and is categorized to be in Non-residential Zone (NRZ) of Beltline 3 (BL3) for assessment purposes.

Issues:

[7] The Complainant identified the matter of an assessment amount on the Assessment Review Board Complaint and attached a list outlining several reasons for the complaint. At the hearing the Complainant identified the issue as follows:

1. The assessed net rent rate should be reduced to \$12 from \$13 per square feet.

Complainant's Requested Value: \$17,540,000

Board's Findings in Respect of Each Issue:**1. Net Rent Rate**

[8] The assessment of the subject property reflects a net rent rate of \$13 per square foot for the office area in the building. The complainant requested a reduction in the rent rate to \$12 per square foot.

[9] A rent roll dated February, 2011 for the subject was provided by the Complainant together with a chart listing nine of the newer leases that have a commencement date range from April, 2010 to July, 2011. This chart shows the mean rate and the median rate at \$12.17 and \$12.00 respectively and the Complainant argued this supports his claim for a \$12 rental rate. Also reference was made to the Bentall decision, 2006 BCSC 424, paragraph (7), point 10, in support of the assertion that there is adequate information available from leases within the subject and the best evidence would be the new leases.

[10] The Board finds the subject rent roll, dated February, 2011, is not sufficiently current to support some of the more current lease rates, specifically for units 200, 220 and 1440. The Board notes that the lease rate on the rent roll for unit 200 is listed at \$21 with an end date of 06/30/2011, no listing is shown for unit 220 and 1440. However the Board notes that there are several leases in the range of \$11 to \$28 per square foot that were effective as of the valuation date, July 1, 2011 and six leases in the range of \$13 to \$14 with a commencement date of January and June, 2011. These 2011 leases convinced the Board that no change is required to the net rental rate.

Board's Decision:

[11] The Board confirms the assessment at \$18,950,000.

DATED AT THE CITY OF CALGARY THIS 10th DAY OF Aug 2012.



M. Chilibeck
Presiding Officer

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

NO.	ITEM
1. P1	Complainant's Copies if Emails
2. C1	Complainant'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.*

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Decision No. 046-1122-2012P			Roll No. 068134600	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Office	High Rise	Income Approach	-Net Market Rent/Lease Rates