

**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:**

***Castera Properties Inc. and Camargue Properties Inc. (as represented by Cushman & Wakefield Property Tax Services), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***W. Kipp, PRESIDING OFFICER  
J. Mathias, 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: 053241303**

**LOCATION ADDRESS: 920 – 36 Street NE, Calgary AB**

**FILE NUMBER: 66084**

**ASSESSMENT: \$12,280,000**

This complaint was heard on the 8<sup>th</sup> day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Jan Goresht*

Appeared on behalf of the Respondent:

- *Irene Pau*

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

- [1] There were no preliminary matters to be decided.

**Property Description:**

[2] The property that is the subject of this hearing is a strip shopping centre located in the Marlborough district of northeast Calgary. The centre faces onto the east side of 36<sup>th</sup> Street NE which is part of the route of the northeast leg of Calgary's Light Rail Transit (LRT) system. The property comprises a 4.46 acre commercial lot improved with a one and two storey shopping centre building. The total rentable area is 62,050 square feet, of which 5,886 square feet are second floor office space. The building was constructed circa 1980. There are about 32 retail tenant bays on the ground floor ranging in size from about 800 square feet to over 10,000 square feet. A paved parking lot is between the building and 36<sup>th</sup> Street.

[3] The 2012 assessment of \$12,280,000 represents \$197.90 per square foot of total rentable building area. The building is rated as a B+ class retail strip centre building.

**Issues:**

[4] In the Assessment Review Board Complaint form, filed March 5, 2012, Section 4 – Complaint Information had check marks in several boxes:

- 1) Box 3 "an assessment amount",
- 2) Box 4 "an assessment class",
- 3) Box 5 "an assessment sub-class",
- 4) Box 6 "the type of property",
- 5) Box 7 "the type of improvement".

[5] In Section 5 – Reason(s) for Complaint, the Complainant stated five points where it was maintained that information on the assessment notice was incorrect.

[6] At the hearing, the Complainant pursued the following issue:

The vacancy rate applied in the income approach should be increased from 10% to 20%.

**Complainant's Requested Value:** \$10,180,000

**Position of the Complainant:**

[7] This property is assessed using the income approach with "typical" input factors for rents, vacancy, operating expense and non-recoverable expense allowance which produces a net income that is capitalized at 7.50%. The typical vacancy rate is 10% which is applied to most strip centres in the northeast city quadrant. The Complainant argues that the vacancy rate should be increased to 20%.

[8] The current owner purchased this property in March 2010 for \$12,015,000. At that time, the building was said to be "nearly fully occupied." Subsequently, a large space tenant (CMC-Centre For Newcomers) vacated two spaces having a combined area of 14,873 square feet. No new tenants have been found for these spaces. The Complainant was uncertain as to the date that the tenant left. According to a partial lease summary as at April 2010, this tenant's leases were to expire on March 31, 2011 however the Complainant thought the space might have been vacated earlier than that date.

[9] Barclay Street Real Estate Ltd. was retained for the purpose of leasing vacant spaces in the property however the Complainant was unaware of the date of the listing. The Complainant suggested that it might have been sometime in early 2011. The marketing materials prepared by Barclay Street indicated that there were four vacant retail spaces with total area of 17,780 square feet plus three vacant second floor office spaces having a total area of 2,963 square feet.

[10] In all, there are 20,988 square feet of vacant space, indicating a vacancy rate of 34%. Since the rate of vacancy has not changed significantly since the large space tenant moved out, the assessment should reflect the abnormal rent loss by using an increased vacancy loss allowance of 20%.

[11] The Complainant argued that part of the reason for the inability to lease vacant space was the physical nature of the shopping centre. Firstly, there is a partial second floor and this is uncommon in retail strip centres and is not well received by the market as evidenced by the 50% vacancy. Further, the building is situated near the rear property line, thus, there is no provision for loading/unloading doors at the rear of the building. Retail bay sizes range from a few hundred square feet to more than 10,000 square feet, another characteristic that is uncommon in strip centres. It is also unusual for a strip centre to be this large. Most others have significantly smaller buildings. When the property sold in 2010, it was reported that there was deferred maintenance costs that would amount to \$1,500,000. As at the assessment valuation date (July 1, 2011) and the condition date (December 31, 2011), the deferred maintenance issues had not been corrected. This is one more contributor to the exceptionally high vacancy.

[12] Support for the assessment reduction request can be found in analysis of the sales of two other northeast retail centres. Both of these centres sold in 2011. Pacific Place is an enclosed shopping centre located across 36 Street NE from the subject. It sold for \$46,000,000 (\$245 per square foot of building area). Its assessment is at a lower rate. The other sale property was a neighbourhood shopping centre in Sunridge that sold for \$12,600,000 (\$208 per square foot of building area). Its assessment is \$11,380,000 or \$188.06 per square foot. The subject property sold at \$194 per square foot and is assessed at \$197.90 per square foot and it has the very high vacancy which neither of the other centres has.

**Position of the Respondent:**

[13] The subject property has been assessed using the income approach with typical input factors including a 10% vacancy loss allowance. Data was provided to show that strip centres in the northeast quadrant receive a higher vacancy allowance than in any other quadrant. Based on information received from owners and managers of similar properties, there were 145,946 square feet of vacant space in northeast strip centres having a total area of 1,474,866 square feet. This represented a vacancy rate of 9.9% which was rounded up to 10%.

[14] The Complainant is arguing that the property suffers from "chronic" vacancy which is a term that is neither defined nor legislated. If there is a tangible cause for a higher than typical vacancy in a property then an adjustment will be made in the assessment calculation. In the absence of evidence to suggest that the property is unique, the typical rate will be applied. In the subject instance, there is no evidence that there is a chronic vacancy problem.

[15] The two other retail centres that the Complainant mentioned are not comparable to the subject. The subject is a strip centre and one of the others is an enclosed mall type of centre while the other is a neighbourhood centre. Different types of centres are assessed using different criteria so comparisons between property types are not reliable.

[16] The Complainant was unable to tell the Board when the large space tenant vacated its space. Lease information provided does not assist the Board. A full lease schedule is dated January 2012 which is well past the July 1, 2011 valuation date. A partial schedule dated April 2010 does not show the total vacancy as at that date.

**Board's Decision With Reasons:**

[17] The Board confirms the 2012 assessment of \$12,280,000.

[18] While "chronic" vacancy was not specifically argued by the Complainant, the assessment reduction request was based on a presumption of a persistent vacancy problem. Evidence before the Board shows that there was a 34% vacancy as at January 2012. This vacancy includes two bays formerly occupied by CMC-Centre For Newcomers. Other evidence shows that the large space tenant (CMC-Centre For Newcomers) was in place as at April 2010. It appears that this tenant's lease was due to expire on March 31, 2011. The Complainant did not provide evidence to show that the tenant left prior to its lease expiry.

[19] Based on the evidence and argument, the Board was not convinced that the 2012 vacancy would have impacted on the value considerations of buyers and sellers as at July 2011. Without regard to any time adjustment, the 2010 purchase price of \$12,015,000 for the property tends to support the current assessment of \$12,280,000. At the time of the March 2010 sale, the purchaser would have been aware that the lease to a large space user was due to expire in one year. The Complainant did not provide any evidence to the Board to show how the purchaser was motivated by that information.

[20] The Complainant argued that the physical nature of this shopping centre impacted on the desirability of spaces in the building, however, there was no market evidence presented to support the argument.

[21] The Board was unable to draw any conclusions from the sales and assessments of two other shopping centres. No evidence was provided to show comparability between these properties and the subject and the Complainant did not draw any specific conclusions from the

data other than to suggest that the relationship between price and assessment was different for those properties than for the subject.

[22] The conclusion drawn by the Board was that the Complainant failed to provide sufficient supported argument for any change to the assessment.

DATED AT THE CITY OF CALGARY THIS 6<sup>th</sup> DAY OF Sept 2012.

  
\_\_\_\_\_  
W. Kipp  
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. R2	Respondent 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 Internal Use***

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Retail	Strip Plaza	Income Approach	Vacancy Rate