

**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:

***Calvin Charles Wenzel and Edith Dorathy Wenzel (as represented by MNP LLP),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***P. Petry, PRESIDING OFFICER
H. Ang, BOARD MEMBER
D. Steele, BOARD 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: 024023806

LOCATION ADDRESS: 5661 – 7th Street N.E.

FILE NUMBER: 66553

ASSESSMENT: \$6,170,000

This complaint was heard on the 9th day of August, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue N.E. Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- G. Worsley

Appeared on behalf of the Respondent:

- A. Czechowskyj

Property Description and Background

The subject property is a single tenant owner occupied class A+ office building located in the Skyline East District of Northeast Calgary at 5661 - 7th Street N.E. The improvement was constructed in 1999 and consists of 27,846 sq. ft. of office area and 3,544 sq. ft. of storage space for a total rentable area of 31,390 sq. ft.

The subject property has been valued by the Assessor using the capitalized income approach to value. The assessment methodology is not in dispute; however the Complainant indicates that the subject should be classed as an A or A- building which would be equitable with other similar properties and further the rental rate should be reduced to \$12 per sq. ft.

Issues:

- [1] What is the correct and equitable classification of the subject building?
- [2] What is the correct and equitable rental rate for the office space in the subject considering it is a single tenant building?
- [3] Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB) on March 2, 2012. The only issues however, that the parties sought to have the Composite Assessment Review Board (CARB) address in the hearing on August 9, 2012 are those referred to above, therefore the CARB has not addressed any of the other matters or issues initially raised in the Complaint.

Complainant's Requested Value:

- [4] The Complainant had proposed three different values derived from various scenarios; however, the value incorporating the Complainant's preferred changes resulted in a request to reduce the assessment to \$3,720,000.00.

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

[5] The CARB decision is not to assign a specific classification to the subject building and to set the office rental rate at \$15 per sq. ft. This results in a reduced assessment of \$4,770,000.00.

Summary of the Party's Positions**Complainant**

[6] The Complainant indicated that the subject consists of a two story office building with 27,846 sq. ft. of rentable area and two garage buildings with a combined total of 3,544 sq. ft. of space. The focus in this complaint is the office building classification and rental rate.

[7] The Complainant stated that the Respondent does not distinguish between multi tenant and single tenant buildings when establishing rental rates and other factors required by the capitalized income approach to value. The Complainant brought forward a chart of nine properties to show that this is the case. These comparable properties, however were also selected based on their similarity to the subject based on age, size, location, quality and condition. The Complainant argued that these comparables are all classed as "A" or "A -" and in a number of cases the buildings are newer, have special amenities and would be more attractive to potential lessees. All of these comparables show an assessed rental rate of \$17 per sq. ft. based on their "A" or "A -" classification. The Complainant argued that from an equity standpoint, the CARB should at a minimum apply this value to the subject in determining its market value. Based on this change alone the value would be \$5,470,000.00.

[8] The Complainant had also used the above comparables to show that the subject is overvalued based on an analysis of the portion of the assessments arising from the office components only. This analysis showed all of the comparables to be assessed at \$194 per sq. ft. for their respective office components in comparison with the subject's assessment for its office component which stands at \$220 per sq. ft.

[9] The Complainant brought forward an excerpt from the Alberta Assessor's Association Guide dealing with the selection of comparables respecting market rental rates and also argued that Regulation 220/204 section requires that assessments reflect typical conditions for similar properties. Two lease comparables were submitted as being most comparable to the subject. They are both single tenant buildings in the same area as the subject and comparable in condition and size. The Complainant suggested the best of these comparables is the former WestJet building at 5055 – 11 Street N.E. which was constructed in 2000 but has since been completely renovated and upgraded to suite the new tenant, Enform. This building is superior to the subject and has 10 year lease signed January 1, 2011 at net present value rate of \$12.20 per sq. ft. The other comparable at 3250 Sunridge Way N.E. is very close in size to the subject and has a five year lease signed August 1, 2010 at a rate of \$11 per sq. ft. Based on these two lease comparables the Complainant requested that the CARB set the rental rate for the subject at \$12 per sq. ft. which results in a value of \$3,720,000.00.

[10] The Complainant acknowledged that the Respondent does not consider step-up rates in their analysis but if one were to do so for the Enform Building over the life of the lease agreement the value is \$14 per sq. ft. When this rate is applied to the subject's office component the rate produces an assessment of \$4,420,000.00.

[11] In response to the Respondent's lease data the Complainant argues that the lease at 727 –

57th Avenue N.E. is not an arm's length transaction and that the two leases at 7326 – 10th Street N.E. are multi tenant buildings, therefore these leases are not comparable with the subject. The Complainant argued that if the non arm's length lease only is removed from the Respondent's analysis the resulting value is \$18 per sq. ft. and this value does not support the assessed rate of \$19 per sq. ft. used in the assessment of the subject. The Complainant also referred to the Respondent's equity comparables arguing that these comparables are all located in the Deerfoot Business Centre and all are superior in architecture and amenities when compared to the subject. The per sq. ft. calculations done by the Respondent are not meaningful as the ratios of storage and office space are not the same as the subject.

[12] Finally if the Respondent's remaining lease data (even though from a multi tenant building) is combined with the Complainant's two lease transactions, these four leases produce a median value of \$15 per sq. ft. or a weighted mean of \$12.06 per sq. ft. All of the alternate values brought forward produce rental values below the rental value used in the assessment of the subject. The Complainant suggested that based on the single tenant consideration the assessment should be reduced to \$3,720,000.00.

Respondent

[13] The subject property has been assessed at a value of \$6,170,000 or \$197 per sq ft. The sq. ft. used to determine this per sq. ft. value is 31,390 which includes the storage garage buildings.

[14] The Respondent brought forward four assessment comparables to show that the subject had been assessed using the same parameters as other "A+" classed buildings and all but one of these comparables have sq. ft. values above that of the subject when this calculation is done using the overall square footage.

[15] The Respondent referred the CARB to a table of three leases which it argued support the lease rate of \$19 per sq. ft. applied to the subject. These leases produced a median rate of \$18 per sq. ft. and a weighted mean of \$19.33 per sq. ft.

[16] The Respondent argued that it has not seen a differential between multi tenant and single tenant lease rates and therefore the current assessment is correct, fair and equitable.

Findings and Reasons for the Board's Decision:

Issue 1) Classification of the Improvement

[17] The Complainant argued that the subject is incorrectly classified as an "A+" building and its class should be either "A" or "A -" according to other buildings with similar attributes to those of the subject. The CARB was somewhat persuaded by the argument and evidence in this regard; however, the issues of single tenancy and a correct rental rate are not resolved by a mere change in the buildings classification. Both the CARB and the Complainant sought to have the Respondent set out the basis for deciding whether a building is an "A+" class or an "A" class building. The CARB found the information provided by the Assessor on this point to be vague and not to provide sufficient detail to make any clear determination respecting the subject. The CARB therefore has decided not to make a change to class as this question seems to require more study than the evidence before the Board would allow and is not essential to the other findings of the CARB.

Issue 2) Rental Rate

[18] The Complainant argued for a reduced rental rate based on its evidence respecting rates being achieved by other similar single tenant buildings. This information is somewhat persuasive; however the Complainant only provided two lease comparables and a larger preponderance of evidence is required in our view in order for the CARB to have confidence in the validity of the \$12 per sq. ft. rate arising from these comparables.

[19] The Respondent provided only three lease comparables and the CARB found this to be insufficient evidence as well. Other weaknesses in the Respondent's lease comparables include the fact that the median of this data did not support the rate of \$19 used in the assessment. These leases were drawn from Deerfoot Business Centre only which is outside the Skyline district where the subject is located. The CARB agrees with the Complainant that these comparables appear to be a cut above the subject given the limited evidence brought forward by the parties. Finally, the CARB has determined that the sale at 757 – 57 Avenue N.E. is not an arms length sale and should not be included in the analysis for that reason.

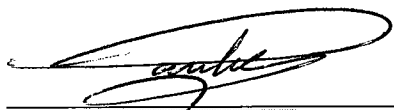
[20] In light of the above determinations the CARB was left with four remaining sales, two from the Complainant and two from the Respondent's evidence. These four sales were analyzed by the Complainant in its rebuttal and they produce a median value of \$15 per sq. ft. This is the value that the CARB has decided represents the best rental evidence before the Board and also a value that is fair and equitable. The CARB believes that the evidence suggests a differential in rental rates between multi tenant and single tenant buildings and even though there is insufficient evidence in this case to be conclusive, this matter may deserve more study. In this case the rate of \$15 per sq. ft. decided by the CARB results from an equal number of single tenant and multi tenant leases.

Summary

[21] The Complainant has introduced sufficient evidence to persuade the CARB to reduce the rental rate for the office component of the subject from \$19 to \$15 per sq. ft. In doing so the CARB considered the lease evidence from both parties and the single tenant nature of the subject building. The CARB's lack of findings with respect to the matter of building class became moot in light of the evidence on rental rates. Based on the change in rental rate only to \$15 per sq. ft. the market value of the subject property is reduced by the CARB to \$4,770,000.00.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF AUGUST 2012.



Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	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 ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
Suburban Office	N.E. Office	Class "A+" or "A"	Lease rate	Tenancy

