

**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

***Sun Life Assurance Company of Canada, (as represented by Meyers, Norris, Penny LLP
(MNP LLP)), COMPLAINANT***

And

The City Of Calgary, RESPONDENT

Before:

***M. Chilibeck, PRESIDING OFFICER
E. Reuther, MEMBER
D. Pollard, 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: 138152418

LOCATION ADDRESS: 3445 – 114 AV SE

HEARING NUMBER: 65897

ASSESSMENT: \$29,410,000

[1] This complaint was heard by the Composite Assessment Review Board on 14th day of August, 2012 in Boardroom 9 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:

- M. Uhryn

Appeared on behalf of the Respondent:

- K. Buckry

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.

[3] No preliminary matters were raised by either party.

Property Description:

[4] The subject property consists of two office buildings (constructed in 2009) and one, multi bay, warehouse/office building (constructed in 2002) located on 9.15 acres of land in the community of Shepard Industrial (more specifically Douglasdale Business Park) in southeast Calgary. The office buildings have two floors and a combined area of 95,688 square feet. The warehouse building has an area of 70,300 square feet. The property is commonly known as the Douglasdale Executive Centre.

Issues:

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

1. The vacancy allowance for the two office buildings should be increased to 16% (from 8%), or
2. The rental rate for the two office buildings should be reduced to \$13 per square foot (from \$18) and the non-recoverable allowance should be increased to 4% (from 1%), or
3. The rental rate for the two office buildings should be reduced to \$14.50 per square foot (from \$18) and the non-recoverable allowance should be increased to 4% (from 1%).

Complainant's Requested Value: As per issue 1. \$26,100,000
As per issue 2. \$27,770,000
As per issue 3. \$28,060,000

Board's Findings in Respect of Each Issue:

[6] The complainant is not disputing the valuation of the warehouse/office building (valued at \$8,372,882).

[7] The two office buildings are valued by using the capitalized income method and applying a rental rate of \$18 per square foot on total building area, typical vacancy rate of 8% and a non-recoverable allowance of 1% that results in a valuation of \$21,043,705.

[8] The Complainant requests a reduction in the valuation of the office buildings to recognize that the vacant area is not complete (it is just a shell) as the floor covering, ceiling tile and partitions are not in place. The Complainant provided three alternative calculations to recognize the incomplete state of the vacant area; increase the vacancy rate (coefficient) to 16%, or decrease the rental rate for the vacant area to \$13 per square foot and increase the non-recoverable rate to 4%, or decrease the rental rate to \$14.50 per square foot and increase the non-recoverable rate to 4%.

1. Vacancy Rate

[9] The Complainant argued that the subject property has not achieved 100% occupancy since it was completed in 2009 and "While this is not a chronic vacancy problem the subject property has been slow to fully lease up and shows atypical vacancy." A chart was provided which shows the vacancy history for the past three assessment years; 2011 December 31 at 16%, 2011 May at 33% and 2010 July at 60%. In rebuttal the Complainant showed that the vacancy of the subject has decreased during the 2011 assessment year from 33% in July, 2011 to 16% in December, 2011. Also, in rebuttal, a chart was provided listing five comparables from Quarry Park with a similar construction year and similar size to show that these properties have leased up at a much quicker rate than the subject.

[10] The Respondent provided their 2012 vacancy analysis for the south suburban office properties with a mean vacancy rate of 7.35% in support for the assessed vacancy rate of 8%. Also a chart with six property sales (2008 to 2011) recently constructed (2008 to 2010) was provided to demonstrate that "atypical" vacancy was not allowed in calculating the assessments.

[11] The Board is not convinced that the vacancy allowance should be adjusted. The charts provided by the Complainant show that the occupancy has been increasing since the building was completed in 2009 and the rebuttal chart for the Quarry Park properties, with similar year of construction, shows the vacancy as high as 16%. The Board finds these charts show that newly constructed properties take time to lease up.

2. Non-recoverable Rate

[12] The Complainant argued that because the subject property has a higher vacancy than typical, the non-recoverable rate should be increased to recognize the increased cost of leasing the vacant space. This assertion was supported with a monthly statement for the period ending December 31, 2011 that the landlord is "spending 4% of total revenues on non-recoverables in order to generate interest in the building in order to reduce vacancy. Additionally, the amount spent on non-recoverables has increased from 2011 to 2012 showing that there is a concerted effort being put into further reducing vacancy."

[13] The Board finds the Complainant's position to be unfounded. The Board believes further analysis of the operating statement is required to understand which of the listed expenses are properly included in the assessed non-recoverable allowance. The Board notes the statement is for the Douglasdale Executive Centre that includes two subject office buildings and one

warehouse/office building; what amount of the expenses are attributable to the office buildings versus the warehouse/office building? Also, an explanation should be made of the significant increase in management fees from 2010 to 2011; why the significant increase and what amount is attributable to the office buildings and to the warehouse/office building? As a result the Board was not persuaded to change the non-recoverable rate.

3. Rental Rate

[14] The Complainant argued the vacant area should be reduced by \$5 per square foot to recognize the incomplete state of the vacant area. This request was supported by two previous CARB decisions on the subject property, 1446-2011-P and 1441-2010-P. Decision 1446-2011-P was for the unfinished vacant area wherein the rental rate was reduced by \$5 per square foot which reflected the practice of the Respondent in similar situations. Decision 1441-2010-P was on the typical assessed vacancy rate wherein the typical vacancy rate was increased.

[15] In rebuttal, the Complainant provided a recent CARB decision (0931-2012-P) on a similar property in an adjacent area in support for the reduction of the assessed rental rate for the vacant area. This decision reduced the rental rate by \$3.50 per square foot for the vacant, unfinished area. The Complainant provided calculations for the office buildings utilizing \$14.50 per square foot of vacant area

[16] Given that the Respondent did not refute the unfinished condition of the vacant area and that the assessed rate of \$18 is for finished space, the Board is persuaded that the vacant unfinished area should be assessed at less than the finished area. The Complainant did not provide any cost information to complete the vacant area. The Board, being convinced that the unfinished vacant area should be valued less than finished area, found CARB decision 0931-2012-P persuasive. This is a current decision that deals with the same issue as in this hearing and was based on cost evidence to finish the vacant area. Accordingly the Board changes the assessed rental rate for the vacant area of 15,509 square feet to \$14.50 per square foot.

[17] Based on the foregoing, the Board changes the value for the office buildings to \$20,346,528 plus the value for the warehouse/office building of \$8,372,882 results in a total assessment for the property of \$28,719,410 truncated to \$28,710,000.

Board's Decision:

[18] The Board changes the assessment to \$28,710,000.

DATED AT THE CITY OF CALGARY THIS 08 DAY OF AUGUST 2012.



M. Chilibeck
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's 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 MGB ADMINISTRATIVE USE ONLY

Decision No. 046-1493-2012P			Roll No. 138152418	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Office	Low Rise	Income Method	-Rent Rate Unfinished Area -Vacancy Rate -non recoverable rate