

**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:

***Calgary Real Estate Board Co-operative Limited
(as represented by Assessment Advisory Group Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
Y. Nesry, MEMBER
E. Reuther, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	070030739
LOCATION ADDRESS:	300 Manning Road NE
HEARING NUMBER:	64823
ASSESSMENT:	\$10,630,000

The complaint was heard on July 28, 2011, in Boardroom 8 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- T. Howell

Appeared on behalf of the Respondent:

- G. Good

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description:

The subject property is a 135,296 sq.ft. (square foot) parcel of land, improved with a 54,080 sq.ft. low-rise, suburban office structure, constructed in 1999, and comprised of 47,587 sq.ft. of office space assessed at a net rent coefficient of \$21.00 per sq.ft., and 6,493 sq.ft. of storage space assessed at a net rent coefficient of \$3.00 per sq.ft.

Issues:

The Complainant raised the following matter in section 4 of the complaint form:

3. an assessment amount

The Complainant set out 2 grounds for the complaint in section 5 of the complaint form with a requested assessment of \$8,000,000, however at the hearing the Complainant led evidence and argument only in relation to the following issue:

Issue: The assessed value is incorrect and fails to meet the legislated standard of market value.

Complainant's Requested Value:

At the hearing the Complainant requested the assessment be revised to \$5,000,000.

Board's Decision in Respect of the Issue:

The Complainant argued that the average net rent coefficient of \$18.84 per sq.ft. applied to the subject's leasable area is excessive, and an average net rent coefficient of \$10.00 per sq.ft. is appropriate. In support of the \$10.00 net rent rate, the Complainant submitted an excerpt from a lease of an inferior, neighbouring property, commencing on July 01, 2010, the legislated valuation date for the current assessment, for a term of 10 years at a net rent rate of \$7.00 per sq.ft. for the first year of the lease [C1, pp.18-22].

The Complainant also provided a copy of the 2011 Assessment Request For Information forms (ARFI) returned by the owner of the subject and the neighbouring property to the assessor, to demonstrate that the lease information was made available to the assessor [C1, pp.8-17].

The Complainant submitted an income approach calculation of the subject property, using the \$10.00 per sq.ft. net rent coefficient applied to the total leasable area of the improvement to arrive at an indicated value of \$5,136,879, in support of the request of \$5,000,000.

The Respondent did not submit any evidence in the hearing. The Respondent argued that the Complainant's ARFI, containing the July 01 lease information should not be relevant in this proceeding as it was provided to the assessor in response to the 2011 request for information, and was not available to the assessor as of the legislated valuation date of July 01, 2010. The Respondent further argued that the Complainant did not provide evidence of typical lease rates, but rather, only one lease example.

Decision:

The Board finds that there was insufficient evidence to conclude that the assessed value is incorrect, and fails to meet the legislated standard of market value.

The Board did not find the Respondent's argument with respect to the lease information being unavailable to the assessor on the valuation date compelling. *Matters Relating to Assessment and Taxation Regulation AR220/2004*, sets out the requirements with respect to the 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.*

The Assessor is provided with the authority to request information necessary to prepare an assessment, and it would seem logical that leases signed and commencing near to, and on July 1 of the assessment year would provide the best indication of the market as of the legislated valuation date. The Board finds that the Complainant is justified in submitting evidence of leases commencing on the valuation date; that the assessor fails to request such information until the spring of the following year, when it is too late to be relied on for the preparation of the assessment is not the fault of the property owner.

Notwithstanding the above, the Board was not persuaded by the Complainant's lease information, as the entire lease document was not provided in evidence. The Board noted that the \$7.00 per sq.ft. lease rate was applicable to only the first year of the lease, and there was no evidence of the lease rate applicable to subsequent years. Further, there was no evidence that the Complainant's lease example, although commencing on the valuation date, is representative of typical market rents as of the valuation date.

Board's Decision:

The assessment is confirmed at **\$10,630,000.**

DATED AT THE CITY OF CALGARY THIS 21st DAY OF SEPTEMBER, 2011.



J. Krysa,
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission

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	Low Rise	Income Approach	Net Market Rent