

**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:**

***Morprop Holdings Alberta Limited, COMPLAINANT (as represented by AEC International Inc.)***

**and**

***The City of Calgary, RESPONDENT***

**before:**

***J. Dawson, PRESIDING OFFICER  
D. Morice, MEMBER  
K. Coolidge, 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:

<b>ROLL NUMBER:</b>	<b>201506052</b>
<b>LOCATION ADDRESS:</b>	<b>7661 – 10 ST NE</b>
<b>HEARING NUMBER:</b>	<b>63362</b>
<b>ASSESSMENT:</b>	<b>\$15,560,000</b>

This complaint was heard on 3<sup>rd</sup> day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *B. Ryan*            *Agent, AEC International Inc.*
- *J. Wingrowich* *Agent, AEC International Inc.*

Appeared on behalf of the Respondent:

- *C. Neal*            *Assessor, The City of Calgary*

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

Complainant requested to alter the vacancy rate as presented in their disclosure document C1 from 14% to 12% for the office rental rate. As this amount matched the Respondent's requested vacancy rates of 12%, the issue of vacancy is hereby removed. Respondent agreed to the request and the Board accepted the change in evidence.

No further objections on procedure or jurisdiction were raised.

**Property Description:**

The subject property is located in the northeast neighbourhood of Deerfoot Industrial with; 274,596 square feet of assessable land, and three multi-tenanted buildings with a total assessable building area of 77,677 square feet of office space. The subject was built between 1999 and 2000 of an A+ quality predominantly used for suburban office space. The Income Approach was utilized by the Respondent calculating a Net Operating Income (NOI) of \$1,290,249 using \$21.00 for office rental rate, 7.5% capitalization rate and 12% vacancy. There is also \$1,640,000 worth of exempt value resulting in the current assessment of \$15,560,000.

**Issues:**

The Complainant identified one matter on the complaint form:

**1. The assessment amount is incorrect**

**A. Issue of Complaint:            Equity**

The assessor is required to take into account the principle of equity in arriving at the assessment. As similar and comparable properties are assessed at lower rates, AEC contends that the subject property assessment is overstated and inequitable when compared to other similar properties.

**B. Issue of Complaint:            Typical lease rate**

The property assessment is in excess of the legislated market value standard as required by the Municipal Government Act and regulations. The City has relied upon an incorrect rental rate of \$21.00 per square foot.

- C. Issue of Complaint: **Assessment per square foot**  
The property assessment is in excess of the legislated market value standard as required by the Municipal Government Act and regulations. The City has relied upon an incorrect assessment rate of \$200.00 per square foot.
- D. Issue of Complaint: **Everything and anything**  
Such further and other facts or grounds that are identified as disclosure of the manner in which the assessment and similar assessments were prepared and as the equity analysis develops through amended notices or board decisions.

**Complainant's Requested Value:** \$12,500,000 (complaint form)  
\$13,847,000 (disclosure document using 14% vacancy,  
7.5% capitalization rate and \$18.00 office rental rate)  
\$14,470,000 (requested at hearing using 12% vacancy,  
7.5% capitalization rate and \$18.00 office rental rate)

**Summary of Complainant's Argument and Evidence:**

The Complainant provided two documents broken into three separate exhibits which were accepted into evidence as; Document C1 for the disclosure of evidence for this hearing and another hearing, and Documents C2a and C2b for the rebuttal evidence for this hearing and four additional hearings.

The presentation from the Complainant started with document C1 with an executive summary (page 3), salient facts (page 4), city assessment and valuation summary (page 6), city 2011 valuation analysis (page 7), property details (page 8), subject photos (page 9), map views (pages 10 and 14), valuation analysis (pages 15 and 16), analysis of Calgary market at time of subject leasing activity (pages 17 and 18), leases analysis (pages 19 through 21), market reports (pages 21 and 22), comments on vacant space shortfall, non-recoverables, and capitalization rate (page 23), and an AEC valuation analysis (page 24). The Complainant continued with Document C1 and provided a partial copy of the Assessment Request for Information (ARFI) (page 25), market value conclusion (page 27), equity analysis (page 28), summaries and samples of case law and legislation (pages 29 and 30), and a conclusion (pages 31 and 32). Supporting information was attached to Document C1 (pages 33 through 69).

The Complainant argued that;

AEC International has undertaken a valuation study of the subject properties located at 7315 - 8 Street NE, 7661 - 10 Street NE, and 7326 - 10 Street NE, Calgary AB. The subjects are assessed utilizing the Income Approach. AEC International determined that the subject's property assessments are unfair and inequitable based on the following:

1. The assessed rental rates of \$21 are deemed excessive, when compared to market data and leasing activity. The City has assessed rental rates of \$21.00 in comparison to leasing activity in the subject properties in the range of \$18.00 which correlates to market activity in the range of \$16.00 psf.

2. AEC submits that the increases of 7.92%, 24.38%, and 8.55%, are not consistent with the market, and is inequitable when compared to 1120 - 68 Avenue NE, which has experienced a 7.74% decrease and is located within the same community as the subjects.
3. The vacancy rate for 7315 8 Street NE, should be 30% given the subject was 100% vacant in the base year, and remains vacant.

Following the Respondent's presentation the Complainant provided Documents C2a (pages 1 through 100) and C2b (pages 101 through 174) for their rebuttal evidence. Within the combined rebuttal documents was a summary (pages 3 through 6) and supporting documents (pages 7 through 174).

The Complainant's requested reduced assessment is \$14,470,000 using 12% vacancy, 7.5% capitalization rate and \$18.00 rental rate.

#### **Summary of Respondent's Argument and Evidence:**

Respondent provided one document which was accepted into evidence as Document R2. The Respondent reviewed information regarding legislative authority for property assessment (pages 3 and 4), property valuation methodology (page 5), mass appraisal and its relation to assessment (pages 6 through 8), the burden of proof or onus of the parties principals (pages 9 and 10), summary of testimonial evidence (pages 11 and 12), and a failure to disclose briefing (page 13). Respondent further reviewed the 2011 Property Assessment Notice (page 15), Income Approach valuation summary (pages 16 and 17), photographs (pages 18 through 21), map and aerial photograph (pages 22 and 24), Morguard leasing ad (pages 25 and 26), equity comparables (page 28), lease comparables (page 29), photographs of comparables (pages 30 through 31), and a market rental rate report (page 34). The Respondent then provided a conclusion to support their requested assessment at \$15,560,000. Supporting information was attached (pages 38 through 77).

The Respondent argued that;

The Complainant has raised the issue rental rate. Is the assessed rental rate of \$21.00 correct? Or is the requested rental rate of \$18.00 correct? The Complainant's position is based on a number of post facto leases with only three (3) in valuation time period.

The Respondent argued that the subject property was assessed fairly with respect to the typical office rental rate that was applied in the income approach to value. There were eight (8) leases that commenced for A+ quality suburban offices' in the northeast between July 2009 and July 2010. The median of these leases was \$20.80 and the weighted mean was \$21.46. The assessed typical suburban office rental rate: \$21.00.

Is the subject property equitably assessed with other similar properties? The Complainant gives five (5) properties for comparability but does not acknowledge differences such as underground parking, rental income and storage space which would alter the comparability factor. The Respondent addressed the methodology of using dollars per square foot as a unit of comparison and provided previous Board decisions to enhance their position (CARB 0481/2010-P and MGB DL 011/08).

Is the assessment consistent with the principals set out in the Bramalea decision? The

Complainant provided excerpts and written information in regards to Bramalea and its application to this property. The Respondent spoke to the concerns brought forward by the Complainant and also clarified the decision of Bramalea and also spoke to the Bentall decision.

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

**1. The assessment amount is incorrect**

**A. Issue of Complaint: Equity**

The Board finds that the assessment is equitable as set out in the Municipal Government Act (MGA) 293. The Board also notes that the Complainant's assertion of equity with 1120 – 68 Ave NE is not valid as they are assessed by way of different sub-classes.

**B. Issue of Complaint: Typical lease rate**

The Complainant spent considerable time in demonstrating the five lease comparables provided by the Respondent in Document R1 (page 25) at the address 1925 – 18 Ave NE known as Medallion Centre and also known as Vista Heights were not capable of providing a typical lease rate of \$21.00. The Board is convinced that the lease comparables at 1925 – 18 Ave NE have many factors including; new building with more than 50% vacancy, a receivership with a distressed sale looming, and unique leasing arrangements with no rent paid but instead subsidy paid to tenant, which make these leases troubling to use as typical. The Board in considering typical lease rates removed the 5 leases located at 1925 – 18 Ave NE from the lease comparables chart and did not use any post facto leases. The Board added one lease from the Complainant it found as credible and calculated a lease rate of \$21.00. The Board finds the typical lease rate utilised by the Respondent of \$21.00 acceptable.

**C. Issue of Complaint: Assessment per square foot**

The Board finds that the Respondent did follow the Standards of Assessment as outlined in Part 1 of Matters Relating to Assessment and Taxation (MRAT) regulation. The Board also notes that an increase in assessment in any amount is not grounds in and of itself for an appeal.

**D. Issue of Complaint: Everything and anything**

The Board offers no useful comments on this issue.

**Board's Decision:**

After considering all the evidence and argument before the board, the complaint is denied, and the assessment is confirmed at \$15,560,000.

DATED AT THE CITY OF CALGARY THIS 7<sup>th</sup> DAY OF September, 2011.

  
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J. Dawson  
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
3. C2a	Rebuttal Document part 1 of 2
4. C2b	Rebuttal Document part 2 of 2

*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.*