

**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:

***Macro Realty & Management Ltd.,  
(as represented by Colliers International Realty Advisors Inc. ), COMPLAINANT***

and

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

before:

***L. Wood, PRESIDING OFFICER  
K. Farn, MEMBER  
R. Deschaine, 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:

|                          |                     |
|--------------------------|---------------------|
| <b>ROLL NUMBER:</b>      | <b>067186007</b>    |
| <b>LOCATION ADDRESS:</b> | <b>720 17 AV SW</b> |
| <b>HEARING NUMBER:</b>   | <b>65785</b>        |
| <b>ASSESSMENT:</b>       | <b>\$2,160,000</b>  |

This complaint was heard on the 21<sup>st</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 8.

Appeared on behalf of the Complainant:

- Mr. J. Havrilchak                      Agent, Colliers International Realty Advisors Inc.

Appeared on behalf of the Respondent:

- Mr. R. Fegan                      Assessor, City of Calgary

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

[1] There were no procedural or jurisdictional matters raised by the parties during the course of the hearing.

**Property Description:**

[2] The subject property is a freestanding retail complex, commonly known as Halstead Mattress Works. The building was constructed in 1959. It has a total net assessable area of 10,982 sq. ft., and is situated on 5,998 sq. ft. of land. The subject property is divided into three retail units, as follows:

| Subcomponent              | Area<br>(sq. ft.) | Market Net<br>Rental Rate |
|---------------------------|-------------------|---------------------------|
| Retail Space              | 4,482             | \$29.00                   |
| Retail Space Below Grade  | 3,300             | \$10.00                   |
| Retail Space Second Floor | 2,610             | \$15.00                   |

[3] The subject property was assessed based on the Income Approach to value.

**Issues:**

[4] The issues were identified as follows:

- (a) The market net rental rate of \$29.00 psf applied to the subject property's Main Floor Retail Space is not consistent with current market activity.
- (b) The vacancy rate of 10% applied to the Retail Space Second Floor does not reflect the subject property or market.

**Complainant's Requested Value:**

[5] The Complainant requested an assessment of \$1,560,000 for the subject property.

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

- (a) The market net rental rate of \$29.00 psf applied to the subject property's Main Floor Retail Space is not consistent with current market activity.

[6] The Complainant requested the current assessed rate for the main floor retail area be reduced from \$29.00 psf to \$20.00 psf. The Complainant submitted that the former tenant, commonly known as Le Chateau, had signed a 5 year lease starting in November 2007 during a strong retail market. That lease for the main retail area (4,482 sq. ft.) was \$17.00 psf (Exhibit C1 page 11). It had terminated in April 2011. The Complainant indicated that the landlord has recently entered into a temporary four - month "Christmas" lease at \$25.00 psf, starting on September 1, 2012 (Exhibit C1 page 12). He noted that this kind of lease usually has a premium over typical term deals.

[7] The Respondent submitted several lease rates from similar B class buildings located within the vicinity of the subject property to support the assessed rate of \$29.00 psf. The buildings were constructed in 1912 – 1988 and have leasable areas of 661 – 8000 sq. ft. The leases commenced in August 2009 – February 2011 with 2 – 10 year terms for \$21.82 – \$45.00 psf, a weighted average of \$29.44 psf (Exhibit R1 page 9).

[8] The Respondent argued that the Complainant has not provided any evidence of lease rates except from the subject property; however, it is inappropriate to assess a property based on its own economics (as opposed to typical). He argued the Complainant's approach contravenes section 2 of *Matters Relating to Assessment and Taxation Regulation AR 220/04* ("MRAT").

[9] In rebuttal, the Complainant submitted a series of photographs of the Respondent's lease comparables and argued that they are not similar in condition to the subject property, therefore, it is inappropriate to use a \$29.00 psf rate for the subject property (Exhibit C2 pages 5 -18).

[10] The Board noted the Respondent was not familiar with the comparables (or their condition) of which he used to derive the \$29.00 psf assessed rental rate for the subject property. This became evident during the hearing when the Respondent reviewed the Complainant's (rebuttal) photographs of those comparables. The Board finds the Respondent's comparables are not similar to the subject property but are superior to it. As such, the Board finds the Complainant's request of \$20.00 psf for the main retail area is reasonable, noting the Le Chateau lease of \$17.00 had commenced during a strong retail market. The Board placed little weight on the "Christmas" lease effective September 2012 presented by the Complainant as this is post facto evidence.

- (b) The vacancy rate of 10% applied to Retail Space Second Floor does not reflect the subject property or market.

[11] The Complainant submitted the second floor retail area has been more difficult to lease and has suffered a higher vacancy level. He indicated its last retail tenant known as, "Hot Gossip," had terminated its five year lease, after three years, in January 2011. That space, which accounts for 1/3 of the building, is still vacant. The Complainant indicated the actual vacancy within the subject property is 32%; however, his request of 25% is only applicable to

the second level. The remaining two units assessed with a 10% vacancy rate were left unchallenged.

[12] The Respondent submitted that he had applied a 10% vacancy rate to all three units within the subject property, regardless of level. The Respondent presented the 2012 Vacancy Rate charts for retail properties that were utilized by the City of Calgary in the 2012 assessments (Exhibit R1 page 26). He did not submit a vacancy study for the Board's consideration.

[13] The Board finds that neither party presented any market evidence in regards to the vacancy rate; however, the onus is on the Complainant to prove the assessment is incorrect, and on this particular issue, he failed to do so. As such, the current vacancy rate of 10% remains unchanged.

[14] Notwithstanding the Board finds the Complainant's request for a \$20.00 psf rental rate reasonable and reduces the subject property's assessment on that basis.

**Board's Decision:**

[15] The decision of the Board is to revise the 2012 assessment for the subject property from \$2,160,000 to \$1,700,000 (truncated).

DATED AT THE CITY OF CALGARY THIS 2<sup>nd</sup> DAY OF November 2012.

  
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**Lana J. Wood**  
**Presiding Officer**

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

| <b>NO.</b> | <b>ITEM</b>            |
|------------|------------------------|
| 1. C1      | Complainant's Evidence |
| 2. C2      | Complainant's Rebuttal |
| 3. R1      | Respondent's Evidence  |

*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    | Retail        | Stand Alone        | Income Approach | Net Market Rent/Lease Rates;<br>Vacancy Rate |