

**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:

***Westfield Kensington Ltd., COMPLAINANT
As Represented by Fairtax Realty Advocates Inc.***

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
J. Rankin, MEMBER
J. Joseph, 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:	059154203
LOCATION ADDRESS:	417 14 Street N.W.
HEARING NUMBER:	64296
ASSESSMENT:	\$2,350,000

This complaint was heard on 22nd day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *Syd Storey*

Appeared on behalf of the Respondent:

- *Magan Lau*

Procedural or Jurisdictional Matters:

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties did not have any objections to the panel representing the Board and constituted to hear the matter. No jurisdictional matters were raised at the onset of the hearing, and the Board proceeded to hear the merits of the complaint, as outlined below.

The Respondent raised a procedural issue related to the late filing of the Complainant's disclosure. The Complainant agreed that the document was not disclosed in accordance with Section 8 of the Matters Related to Assessment Complaints Regulation. The Complainant provided its initial evidence as an attachment to the Assessment Review Board Complaint form, and this was the basis of the material prepared and submitted by the Respondent. The Respondent was prepared to continue with the hearing provided that the Complainant was limited to discussing the material attached to the Complaint form. The Complainant agreed and the hearing proceeded on that basis.

Property Description:

The subject property is located in the Hillhurst Community, at 417 14 Street N.W., and is suburban office. It has a total of 16,782 square feet of assessed office space (according to the City's income approach valuation) apparently on four floors. There are no enclosed parking stalls on the property, and there is apparently an agreement with the community that provides the required parking for the building, and its use as a college. The entire property is leased to Robertson College. The area along 14th Street North is a mix of various commercial uses, with residential uses on either side of these mixed commercial uses.

The property was assessed using an income approach.

Issues:

What is the appropriate vacancy rate for the subject property, to calculate its assessed value using the income approach?

The Complainant originally raised the issues of rental rate and capitalization rate in the Complaint Form package, but at the hearing agreed with the Respondent's rate of \$14 per square foot for rental rate and 8.75% capitalization rate based on further analysis of the market data. Therefore, these were not in dispute at the hearing.

<u>Complainant's Requested Value:</u>	\$1,453,210	(complaint form)
	\$2,032,983	(revised with only the vacancy)

Board's Decision:

What is the appropriate vacancy rate for the subject property, to calculate its assessed value using the income approach?

The Complainant indicated that the 5.5% vacancy rate applied by the City to retail and office space was not correct and argued that a rate of 11.9% for office space is more reflective of the market for the subject property. The basis of the Complainant's requested value was various quarterly reports prepared by third party real estate reporting agencies (Exhibit C1).

The Respondent presented a summary of its northwest suburban office vacancy analysis (page 56-58, Exhibit R1). There are a total of 87 properties in this study. The subject property is one of the 87 properties in the study and showed a vacancy rate of 0%. The mean vacancy rate determined by the study is 5.47%. The assessed vacancy rate applied is 5.5%.

The Complainant argued that the study included a range of building qualities, sizes, and uses (i.e. medical/dental, own use, etc.). As a result, the study underestimates the actual (market) vacancy rate appropriate for the subject building.

Board's Decision:

The Board puts little weight on the third party data presented, as there was no explanation of how the various agencies do these surveys. Therefore, each agency has a slightly different range of values or average values. The use of third party data is appropriate as a check on data prepared by a party before the hearing, but is not sufficient evidence in and of itself.

The vacancy rate used by the City is supported by the City's vacancy rate study for this category of buildings. While the Complainant pointed out weaknesses perceived in the City's study, no alternative analysis was presented. Furthermore, no appropriate size category or other factors were suggested by the Complainant as better reflecting the subject building and its vacancy rate. The Board concluded that the appropriate vacancy rate is the 5.5% used by the City and supported by the vacancy rate study.

The Board also notes that the Complainant shows 17,517 square feet as the assessed space and uses this number in its calculations (Exhibits C1 and C2). The Respondent shows 16,782 square feet of assessed office space, and uses this number in its assessment calculation. The Board concludes that the assessed office space is 16,782 square feet.

Board's Decision:

The Board confirms the assessment of \$2,350,000

DATED AT THE CITY OF CALGARY THIS 26 DAY OF SEPTEMBER 2011.



Ivan Weleschuk
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Complaint Form Package
2. R1	Respondent Disclosure
3. C2	Complainant Summary of Positions

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.*