

**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:

***Marblehead Equities Inc. 1224347 Alberta Ltd. c/o Barclay Street Realty
(as represented by Colliers International Realty Advisors Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
J. Kerrison, MEMBER
T. Usselman, 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:	079032504
LOCATION ADDRESS:	320 23 Ave SW
HEARING NUMBER:	64570
ASSESSMENT (AS AMENDED):	\$6,330,000

The complaint was heard on September 30, 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:

- D. Porteous

Appeared on behalf of the Respondent:

- E. Currie

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

At the commencement of the hearing the Respondent submitted that the complaint in respect of the annual assessment was filed with the Clerk of the Assessment Review Board on March 4, 2011; however, an amended notice was issued in respect of the subject property on March 3, 2011 as a result of a change in occupancy within the property as of December 31, 2010. Accordingly, the Respondent submitted that the matter properly before the Board is the amended assessment. The amendment details are set out as follows:

	Taxable	Exempt	Total
Original Assessment	\$5,700,000	\$627,000	\$6,330,000
Amended Assessment	\$6,330,000	\$ 0	\$6,330,000

The parties agreed that a complaint was not filed in respect of the amended assessment notice.

The Complainant requested a postponement of the proceedings as a result of the amended assessment notice.

Decision:

The Board will hear and decide the merits of the complaint in respect of the amended assessment. The Complainant's request for a postponement of the merit hearing is denied.

The Board finds that the assessment entered on the assessment roll at the time the complaint was filed, on March 4, 2011, is the amended assessment in the amount of \$6,330,000; therefore, the complaint applies to the amended assessment.

With respect to the Complainant's request for a postponement, the Board finds these are not exceptional circumstances, and there is no valid reason to delay the proceedings in this matter.

Matters Relating to Assessment Complaints Regulation, AR 310/2009

15 (1) *Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.*

The Board notes that the Complainant's submission is founded on determining the subject property's total value from which an exemption amount is deducted. As the total property value has not been altered and the Complainant's submission is applicable without amendment, the issues before the Board remain the same notwithstanding the change in the taxable assessment value under complaint.

Property Description:

The subject property is a 32,495 sq.ft. (square foot) parcel of land, improved with a 34,945 sq.ft. "C" quality medical/dental office structure constructed in 1978. The improvement that has not been assigned a value for assessment purposes.

Issues:

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

3. an assessment

The Complainant set out six grounds for the complaint in section 5 of the complaint form with a requested assessment of \$4,220,000; however, at the hearing only the following issues were before the Board:

- Issue 1. The total assessment of the property should be \$4,730,000, as determined by the income approach to value.
- Issue 2. A portion of the total assessment is exempt from taxation in 2011, as a result of a tax exempt occupant in place throughout 2010.

Complainant's Requested Value:

The Complainant requested a (taxable) assessment of \$4,390,000. [C1, p.23]

Board's Decision in Respect of the Issues:

- Issue 1.** The total assessment of the property should be \$4,730,000, as determined by the income approach to value.

The Complainant submitted that the assessor has valued the property as though it were vacant land, as set out below:

$$\text{Land area: } 32,495 \text{ sq.ft.} \times \$195.00 \text{ per sq.ft.} = \$6,336,525 \quad (\$6,330,000 \text{ truncated})$$

The Complainant argued that the assessor's valuation methodology is inappropriate for the subject property. As the subject is an income producing property, its market value should be determined by means of the income approach to value.

The Complainant submitted an income approach valuation of the subject property exhibiting a market value of \$4,737,342, from which an amount of \$346,475, attributable to the tax exempt tenancy was deducted, resulting in a net taxable assessment value of \$4,390,000. [C1, p.23]

In support of the \$12.00 per sq.ft. market rent coefficient the Complainant provided three summaries of comparable leasing activity, exhibiting the following rent rates:

Lease Commencement	No of Leases	Minimum Rent	Maximum Rent	Mean Rent	Median Rent
Jul – Dec 2009	7	\$11.50	\$19.38	\$15.55	\$16.00
Jan – Jul 2010	11	\$11.00	\$14.00	\$12.32	\$12.00
Sep – Dec 2010	8	\$10.00	\$14.50	\$12.31	\$12.50

[C1, pp.29-31]

The Complainant argued that the \$12.00 per sq.ft. rent rate conclusion was the maximum rate appropriate for the subject, as the rate was derived from "B" quality properties, in contrast to the subject, a "C" quality property. Further, the Complainant submitted an assessor's valuation document for a "B" quality office located at 1333 8 St SW to illustrate that the net rent coefficient applied was \$14.00 per sq.ft. in that instance. [C1, p. 43]

The Complainant also provided a tenant roll summary exhibiting a range of rent rates from \$11.00 to \$28.00 per sq.ft. with mean and median rates of \$17.84 and \$16.00 respectively. The summary exhibited lease expiry dates from March 2010 to August 2019. [C1, pp.25-27]

In support of the 8.5% capitalization rate, the Complainant provided third party (C.B. Richard Ellis) capitalization rate surveys as of Q1 and Q2 of 2010; and argued the surveys represented the industry standard. Further, the Complainant argued that an 8.5% capitalization rate coefficient was applied in the valuation of 1333 8 St SW. [C1, pp.39-40, 43]

The Complainant also argued that the requested assessment of \$4,737,342, equating to \$135.57 per sq.ft. was a reasonable estimate of the subject's market value. In support of the requested value the Complainant provided five 2009 and 2010 sales of office properties located in the Beltline district exhibiting sale prices ranging from \$129.53 to \$436.16 per sq.ft. with mean and median sale prices equating to \$298.53 and \$314.04 per sq.ft., respectively. [C1, pp.46-47]

In cross examination the Complainant conceded that he was not aware of the allowable development density of the site.

The Respondent did not provide any market evidence to refute the Complainant's income approach valuation; however, argued that the methodology employed by the assessor is appropriate in this instance as the current improvement on the site does not generate sufficient income to create a value indication greater than the market value of the underlying land.

The Respondent further argued that the subject site is underdeveloped as the permissible development density of the site allows for a 64,990 sq.ft. improvement; however, the current improvement equates to only 54% of the total permitted density. [R1, p.96]

The Respondent argued that in such an instance the estimated land value best represents the market value of the property for assessment purposes, and provided a summary of 66 other properties assessed with a similar "land value" methodology. [R1, pp.23-24]

In support of the \$195.00 per sq.ft. rate, the Respondent provided a summary analysis of five sales of properties located in the Beltline and Mission districts of the municipality, with supporting real estate documents for each. The properties transferred between January 2009 and May 2010 (within 18 months of the legislated valuation date), and exhibit a range of residual land rates from \$151.00 to \$324.00 per sq.ft., with mean and median sale prices of \$228.00 and \$196.00 per sq.ft., respectively, after adjustments for corner lot locations and improvement values. The Respondent argued that the residual land value methodology is an accepted appraisal practice and the sales reflect the value of the land, as the improvements were near the end of their economic life. [R1, pp.25-92]

Decision: Issue 1

The Board finds that the Complainant's capitalized income value does not reflect the market value of the subject property.

The Complainant's income approach valuation indicates that the subject property is incapable of producing a capitalized income value in excess of the established market value of the underlying land (as though vacant). As a result, the Board is persuaded that the current improvement on the site does not contribute an additional value to the value of the underlying land. As there was no market evidence submitted to refute the assessor's land rate of \$195 per sq.ft., the Board finds that the land value represents the market value of the property.

Issue 2. A portion of the total assessment is exempt from taxation in 2011, as a result of a tax exempt occupant in place throughout 2010.

The Complainant submitted that a tax exempt occupant leased 3,422 sq.ft. of office space throughout the assessment year (2010), and until midnight on the day of December 31, 2010. The Complainant argued that this space was therefore exempt from taxation in 2011.

The Respondent conceded that a tax exempt tenant was in place throughout 2010; however, argued that as the tenant's lease expired on December 31, 2010, the corresponding tax exemption was no longer applicable to the subject property.

Decision: Issue 2

The Board finds that the subject property is fully taxable for the 2011 taxation year.

The Board finds that as of January 01, 2011 and to the date of this hearing, no portion of the subject property is occupied by a tax exempt occupant, therefore no portion of the subject property's assessment is exempt from taxation imposed in 2011.

Municipal Government Act, Chapter M-26, RSA 2000

368(3) *If the taxable status of property changes, a tax imposed in respect of it must be prorated so that the tax is payable only for the part of the year in which the property, or part of it, is not exempt.*

332 *Taxes imposed under this Part, other than a supplementary property tax and a supplementary business tax, are deemed to have been imposed on January 1.*

Decision:

The assessment is **confirmed** at **\$6,330,000.** The taxable status is **confirmed** as **taxable.**

DATED AT THE CITY OF CALGARY THIS 20th DAY OF DECEMBER, 2011.


J. Krysa, Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent'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	High Rise	Income v. Sales Approach	Land Value Exemption