

**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:

***GLENMAC CORPORATION LTD., COMPLAINANT
(Represented by ALTUS GROUP LTD.)***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair P. COLGATE
Board Member Y. NESRY
Board Member D. POLLARD***

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: 148055304

LOCATION ADDRESS: 380 CANYON Meadows Drive SE

HEARING NUMBER: 63887

ASSESSMENT: \$12,720,000.00

This complaint was heard on 20 day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *Kam Fong, Altus Group Ltd. – Glenmac Corporation Ltd.*

Appeared on behalf of the Respondent:

- *Margaret Byrne - Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

The subject is a strip centre located at 380 Canyon Meadows Drive SE. The 4.98 acre parcel is improved with 49,384 square feet of retail and office space.

The subject is assessed using the income approach to valuation.

Issue:

1. Has the correct vacancy rate been applied to the subject property?
2. Has the correct office rate been applied to the subject property?

Complainant's Requested Value: \$11,890,000.00

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

Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

The Board will review evidence specific to the issue.

ISSUE 1: Has the correct vacancy rate been applied to the subject property?

Complainant's Evidence:

The Complainant requested the vacancy rate be increased to 7.75%

The Complainant submitted a summary page of the 2011 Capitalization Rates, Vacancy Rates and Operating Costs applied by the City of Calgary. (C1, Pg.25) The Complainant noted the

tables indicated the SE vacancy rate for strip centres was 7.75%. The address for the subject property is 380 Canyon Meadows Drive **SE**.

The Complainant submitted four examples of properties in the south east quadrant assessed using a 7.75% vacancy rate – 11488 24 Street **SE** in Shepard Industrial area, 5303 68 Avenue **SE** in Great Plains area, 90 Cranleigh Drive **SE** in the Community of Cranston and 3750 Bow Bottom Trail **SE** in the community of Deer Ridge. The properties are all strip centres. (C1, Pg.26)

Respondent's Evidence:

Through testimonial evidence the Respondent explained the subject property was located in the Macleod Trail 6 market zone, which straddles the dividing line between the Southwest and Southeast quadrants of the City of Calgary. The reason for the market zone is to provide consistency in the valuation process on the two sides of Macleod Trail. Analysis by the City of Calgary indicated the vacancy rate was more closely associated with the Southwest quadrant with a vacancy rate of 6.5%.

The Respondent also submitted a summary page of the 2011 Capitalization Rates, Vacancy Rates and Operating Costs applied by the City of Calgary. The Respondent stated the table is a guideline, but there are exceptions in areas along the line separating quadrants in response to market conditions. (R1, Pg 22)

Findings of the Board

While the Board can appreciate the confusion created when a document is prepared to present typical, such as the vacancy rate, it must also be accepted there can and will be exceptions to the general rule.

This hearing was an example of the exception to the rule when a market zone is forced to straddle the dividing line between the geographical quadrants of the City of Calgary. The need to create the market zone is to recognize the similarity of properties in an area and apply similar criteria in the development of the assessment. To employ a hard rule of dividing areas by a geographical address would result in identical properties on opposite sides of a street being assessment by differing criteria, resulting in differing assessments. This is not a reality in the market place and fails the mandate of the Municipal Government Act and its Regulations. The Matters Relating to Assessment and Taxation Regulation (MRAC) sets it out as follows –

Standards of Assessment **Mass appraisal**

- 2** An assessment of property based on market value
- (a) must be prepared using mass appraisal,
 - (b) must be an estimate of the value of the fee simple estate in the property, and
 - (c) must reflect typical market conditions for properties similar to that property.**

The creation of market zones allows the grouping of similar properties, under similar criteria being assessed in a similar manner.

The properties provided by the Complainant, while located in the Southeast quadrant, are not located in the same market zone

The Board confirmed the vacancy rate applied to the subject property.

ISSUE 2: Has the correct office rate been applied to the subject property?

Complainant's Evidence:

The Complainant requested the office rate be reduced from \$19.00 to \$15.00 per square foot.

The Complainant submitted eight equity comparables for office space rent rate, located in the Southeast, the Southwest and Northwest quadrants of the City of Calgary. (C1, Pg. 27-60) Office rates ranged from \$15.00 to \$18.00 per square foot.

The Complainant submitted three Decisions from hearings before the Assessment Review Board – ARB 0793/2010-P, CARB 1642/2011-P and ARB 1331/2010-9 – and claimed to support the requested reduction in the office rate.

No lease information for the subject property was submitted.

Respondent's Evidence:

The Respondent submitted documents titled "Definitions of Shopping Centres" which summarized from different sources the characteristics to be found in neighbourhood centres, community centres, regional centres, super regional centres, different power centres and strip (or convenience) centres. (R1, Pg.23-30) The subject property is classified as a strip centre as it has no major tenant such as a supermarket as an anchor.

The Respondent stated, in the Summary of Testimonial Evidence, the office comparables submitted by the Complainant are not located in strip centres, but are located in community and neighbourhood centres and one freestanding bank. The assessment process for community, neighbourhood and strip centres used "different valuation parameters and lease analysis studies" and therefore the comparables are not valid. (R1, Pg 3)

No lease information for the subject property was presented.

Findings of the Board

The Board found no comparable submitted by the Complainant was located in a strip centre, but rather, all but one, were in larger neighbourhood and community centres. The Board found the presentation of comparables from differently classified properties was not compelling evidence and as did not support the request made by the Complainant.

After reviewing three Decisions submitted by the Complainant, the Board extracted the following information –

ARB 0793/2010-P – the Decision with respect to a neighbourhood centre was based upon evidence provided of similar neighbourhood centre comparables,

CARB 1642/2011-P – the Decision was based upon evidence from similarly classified strip centres, and

ARB 1331/2010-P – the Decision was based upon Decisions of other Boards and no evidence was submitted.

Two Decisions indicated that decisions for change can be made when the evidence submitted is from centres with the same classification. This is not the case presented to this Board where the comparable office spaces are located in complexes of differing classifications from the subject.

The Board notes lease information specific to the subject property would have aided in substantiating the requests to reduce or confirm the office rate applied to the office space.

Board's Decision:

The Board confirms the assessment at \$12,720,000.00

DATED AT THE CITY OF CALGARY THIS 18 DAY OF November 2011.



Philip Colgate
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure

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	Strip Plaza	Income Approach	-Net Market Rent/Lease Rates - Vacancy Rate

LEGISLATIVE REQUIREMENTS

MUNICIPAL GOVERNMENT ACT

Chapter M-26

1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Division 1

Preparation of Assessments

Preparing annual assessments

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

289(2) Each assessment must reflect (a)the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

ALBERTA REGULATION 220/2004

Municipal Government Act

MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION

1(f) “assessment year” means the year prior to the taxation year;

Part 1

Standards of Assessment

Mass appraisal

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

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.