

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:

***Bankers Hall GP Inc. (as represented by Colliers International Realty Advisors Inc.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, PRESIDING OFFICER
R. Deschaine, BOARD MEMBER
J. Joseph, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER:	068227107
LOCATION ADDRESS:	404 – 9 Avenue SW, Calgary AB
FILE NUMBER:	70249
ASSESSMENT:	\$37,870,000

This complaint was heard on the 9th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *A. Farley & C. Hartley*

Appeared on behalf of the Respondent:

- *H. Neumann*

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

- [1] There were no preliminary procedural or jurisdictional matters to be decided.

Property Description:

[2] The property that is the subject of this assessment complaint is a multi-level 526 stall concrete parking structure occupying the block between 3 and 4 Streets between 9 Avenue SW and a municipal lane in downtown Calgary. 9 Avenue is a busy eastbound route through downtown. The parkade was constructed in 1965.

[3] The 2013 assessment was prepared using an income approach. Revenue of \$450 per month per stall was projected and then reduced by 40 percent for operating expenses. The resulting net operating income of \$1,704,240 was converted to a value estimate by use of a 4.5 percent capitalization rate.

Issues:

[4] In the Assessment Review Board Complaint form, filed February 27, 2013, Section 4 – Complaint Information had a check mark in the box for #3 "Assessment amount".

[5] In Section 5 – Reason(s) for Complaint, the Complainant stated that the assessment amount was incorrect and it set out a number of reasons.

[6] At the hearing, the Complainant pursued the following issues: the net operating income amount should be adjusted to reflect actual operations of the property and the capitalization rate should be increased from 4.5 to 6.25 percent.

Complainant's Requested Value: \$22,550,000 based on a net operating income of \$1,409,916 and a capitalization rate of 6.25 percent.

Board's Decision:

[7] The CARB accepts the Complainant's capitalization rate and reduces the assessment from \$37,870,000 to \$27,260,000.

Position of the Parties**Complainant's Position:**

[8] It was noted that the assessment of this property increased from \$24,340,000 in 2012 to the current \$37,870,000 (an increase of 55.6 percent).

[9] This parkade's revenue is reliant on patrons who use the facility for hourly, daily or monthly vehicle parking. For a parkade operation where there are only short term "market" agreements, actual performance is synonymous with typical performance. The property owner has provided detailed operating records and from those records, the net operating income for the one year period ending on the valuation date was \$1,407,916.

[10] The capitalization rate used in the current assessment valuation is 4.5 percent which is 2.5 percent lower than the rate used in 2012. The 4.5 percent rate has been derived by an incorrect analysis of a single downtown parkade sale.

[11] The parkade sale was a transaction between Synergy Properties Group and Brookfield Office Properties Inc. Brookfield had a "right of first offer" on the parkade property which actually gave an advantage to the vendor because Brookfield had to make its offer attractive enough to persuade the vendor to make a deal. There was no pressure on the vendor because if the Brookfield offer was unsatisfactory, other potential buyers could be sought out. Title to the property known as the Bow Parkade transferred to Brookfield on April 30, 2012 and the price paid was \$90,000,000. Brookfield was the owner of the remainder of the full block between 6 and 7 Avenues and 1 and 2 Streets SW and permits had been obtained and preparations had started for a new office building development on the eastern portion of the block. Once this property was acquired, it substantially increased the land holding and gave Brookfield more options and flexibility in the redevelopment of the entire block. Subsequent to making this acquisition, Brookfield applied to the City of Calgary for an amended development permit that would encompass two office towers containing more than 2.6 million square feet of office and retail space.

[12] When deciding how much to pay for the Bow Parkade property, Brookfield considered a number of factors including the market value of the property as a parkade, the value it would add to the redevelopment block and the price that the vendor had paid in 2007 (\$86,000,000). The 2007 price had been based on very high revenue projections (over \$5,000,000) that were considered reasonable during the rapidly expanding real estate market at that time. 2012 projections were much lower – in fact, the Respondent's 2012 typical income was only \$3,864,856. Nevertheless, Brookfield felt that any offer for the property would have to exceed \$86,000,000. As part of its due diligence process, Brookfield had estimated a market value of the property if it continued to operate as a parkade. A 12 year cash flow projection was made and the net annual cash flows were discounted at a 6.75 percent rate to yield a parkade value of \$65,805,019. When related to the cash flow for the first year, this value estimate indicated a capitalization rate of 6.25 percent. With consideration to the parkade market value, the 2007 price paid by the vendor and the enhanced redevelopment opportunities, Brookfield offered to pay \$90,000,000 (\$24,194,981 more than parkade market value) and managed to acquire the property at that price. No other developer could have afforded to pay that amount because this property could not be added to any other contiguous land that was already being held for redevelopment. Brookfield has the advantage of a significant revenue stream pending redevelopment and the available parking will enhance the marketing and leasing of the first phase of development on the east portion of the block.

[13] For 2012, the Respondent assessed parkades using a 7.0 percent capitalization rate. A part of their analysis leading to the 7.0 percent rate was the 2007 sale of the Bow Parkade and a 2004 sale of another downtown parkade. Some very dated sales had been used for determining the 2012 tax year capitalization rate but for 2013 the Respondent relied completely on just one questionable sale.

[14] The Bow Parkade 2012 sale might have been at arms-length between a willing buyer and seller but the purchaser was motivated as can be seen by the market value of the parkade versus the price paid for the property. For this reason, this sale cannot be reliably used in determining a typical capitalization rate unless it is adjusted for motivation. In this instance, the motivation factor can be measured against the market value of the property as a parkade.

Respondent's Position:

[15] The Respondent argued that mass appraisal is one of the conditions set out in the regulations for assessing property at market value. A step in the valuation process is using mass appraisal techniques to determine typical rents or income for a property. Using responses to Assessment Requests For Information (ARFIs), the Respondent accurately estimated typical revenues and expense ratios for downtown Calgary parkades. The net income amount used in the assessment is the typical income that the subject parking property could achieve in the valuation year. Actual income is not a replacement for typical income simply because some of that income comes from hourly or daily parking stall rentals. The Complainant's net income estimate which is based on actual property performance should be rejected by the CARB. The Respondent referenced the 2012 ARFI response for the subject property. Parkade revenue for the period from July 2011 to June 2012 was \$2,858,407. If the typical operating expense allowance of 40 percent is deducted, the net operating income is \$1,715,044, an amount that supports the \$1,704,240 typical income used in making the assessment.

[16] The capitalization rate used in the assessment valuation was derived from the April 2012 sale of the Bow Parkade at 231 – 6 Avenue SW. That property sold in an arms-length, open market transaction at \$90,000,000. Using the typical income estimate as at July 1, 2012, the Respondent calculated a 4.29 percent capitalization rate. Sale summary and legal registration documents were included in the evidence to support the Respondent's position that the sale could be relied upon as an indicator of a capitalization rate. The Respondent rejected the Complainant's argument that the property purchase was made for the purpose of assembling a full block redevelopment site. There were no permits in place at the time of sale for any redevelopment and it might be many years before any redevelopment actually commences. In the meantime, the property has the ability to generate a significant revenue flow to the owner.

[17] The Respondent provided a chart and graph showing the progression in prices paid for downtown parking structures over the years from 1986 to 2012. The data shows that prices have consistently increased from \$8,043 per stall in 1986 to \$89,109 per stall in 2012. The graph shows that the 2012 Bow Parkade sale is right in line with the trend.

Complainant's Rebuttal:

[18] In its rebuttal, the Complainant included copies of Alberta CARB, LARB and Queen's Bench decisions and judgements that support its position on mass appraisal and the use of actual and typical incomes.

[19] Also in its rebuttal, the Complainant presented several pages from Canadian real estate appraisal text materials describing valuation principles including the use and consideration of sales data. It was concluded that while the Bow Parkade sale might have been an arms-length sale, the purchaser was highly motivated and paid a premium price which must be adjusted downwards before the sale can be used to determine a typical capitalization rate. One passage from the textbook that precisely applies to the Bow Parkade sale was highlighted:

"Adjustments for conditions of sale usually reflect the motivations of the buyer and the seller. In many situations, the conditions of sale significantly affect the transaction prices. For example, a developer may pay more than market value for lots needed in a site assemblage because of the anticipated incremental value, or plottage value, resulting from the greater utility of a larger site."

Board's Reasons for Decision:

[20] The CARB finds that typical income must be used in valuing downtown parking properties and that the Complainant's capitalization rate of 6.25 percent is most indicative of market actions and expectations.

[21] There is no reason to not use typical income when valuing a parking property using an income approach. An analysis of such properties over a period of time can produce a reliable income estimate even if portions of the income are derived from hourly and daily parkers. The Respondent has undertaken a thorough analysis of these types of properties and the resulting net income amount of \$1,704,240 is found to be reasonable and accurate.

[22] The CARB does not accept that there was such a significant change in the capitalization rate from 7.0 percent in the last assessment to 4.5 percent in the current assessment when there was no evidence before the CARB to explain such a decrease. If market conditions had changed that dramatically, there would have been evidence to explain the reasons for the change. Reliance on one sale, even if that sale is at arms-length does not justify such a significant change in the capitalization rate without some other market support.

[23] The Respondent relied upon a single sale that was documented as an arms-length sale between a willing seller and a willing buyer. It is clear to the CARB however that the buyer, Brookfield Office Properties was motivated to pay the price it paid. The enhanced development potential of the block was a factor that impacted the purchase decision at the \$90,000,000 price.

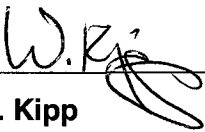
[24] The discounted cash flow analysis undertaken by Brookfield at the time of purchase established a "parkade" value of \$65,805,019. It is unlikely that the valuation was simply a value based on Brookfield's desired rate of return as alleged by the Respondent. The rates used appear to the CARB to be indicative of market expectations. There was no evidence put forward to show that they were simply an expression of Brookfield's desires.

[25] The CARB does not understand why the Respondent relied upon sales as old as 2004 when attempting to find a capitalization rate for the 2012 assessment but used only one questionable sale in finding a significantly lower rate for the current assessment. The Respondent attempted to show that the 2012 sale price for the Bow Parkade was in line with the trend established in other parkade sales. The graph line is obviously tilted upwards by just two

sales – the 2007 and 2012 sales of the Bow Parkade. Without those two sales of \$85,149 and \$89,109 per parking stall, the next highest price was \$32,012 per stall paid in a 2004 sale and the graphical projection to 2011-2012 would have been at a significantly lower price per stall. It is noted that prices changed little (about three percent per year) from 1999 (\$27,525 per stall) to 2004 (\$32,012 per stall). Capitalizing the subject property's net income of \$1,704,240 at a rate of 6.25 percent yields a value of \$27,267,840 or \$51,840 per stall. This unit rate fits within the parkade sales trend if the two sales of the Bow Parkade are discounted.

[26] The CARB sets the 2013 assessment of the subject property at **\$27,260,000**.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF August 2013.



W. Kipp

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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 Internal Use

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	OTHER	PARKING	INCOME APPROACH	NET MARKET RENT CAPITALIZATION RATE