



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:

***Grosvenor Canada Limited (as represented by Linnell Taylor Assessment Strategies),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***C. J. (Chris) Griffin, PRESIDING OFFICER
J. Pratt, BOARD MEMBER
G. Milne, 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: 201635919 / 201635927 / 201635935

LOCATION ADDRESS: 1520 – 4th Street SW, Calgary

FILE NUMBER: 70276 (also incorporating #70275 & #70274)

ASSESSMENT: \$33,270,000 / \$435,500. / \$815,000.

This complaint was heard on the 10th day of June, 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:

- D. Sheridan

Appeared on behalf of the Respondent:

- E. Currie

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

There were no Procedural or Jurisdictional Matters brought forth by either party.

Property Description:

[1] The subject property is (Exhibit C1 pg. 3) a ten storey, multi-tenant office building which has an abutting two storey multi-tenant commercial building attached. The property features 69 underground parking stalls as well as 120 surface parking stalls. The property has a chronological age of approximately forty years. The property is located at the northeast corner of the intersection of 17th Avenue and 4th Street SW in the Beltline district of Calgary.

Issues:

[2] The Complainant maintains that the current assessment does not reflect the Market Value of the property as at July 1, 2012. The Complainant further maintains that the assessed value of the subject property should be the same as the \$28,800,000 (inclusive of the two exempt areas with separate roll numbers) sale price recorded for the property in December 2011.

Complainant's Requested Value: \$27,757,000. (Roll # 201635919)

\$ 363,000. (Roll # 201635927)

\$ 680,000. (Roll # 201635935)

Board's Decision:

[3] The assessment is **reduced** to: **\$ 27,757,000. (Roll # 201635919)**

\$ 363,000. (Roll # 201635927)

\$ 680,000. (Roll # 201635935)

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

[4] The Complainant contends that the subject property was sold as an open market, arms-length transaction in December, 2011 for a total of \$28,800,000 (inclusive of the 2 exempt areas) only eleven months prior to the valuation date and that sales price is the best evidence as to the Market Value of the property as at the valuation date. In support of their contention that the sale was an arms-length transaction the Complainant provided (Exhibit C1 pgs 26 – 29) a copy of the Certificate of Title #111 313 335 and (Exhibit C1 pgs. 30 – 33) copies of the Transfer of Land, Affidavit of Execution, Affidavit Verifying Corporate Signing Authority and the Affidavit of the Transferee. The Complainant also provided (Exhibit C1 pgs. 35 – 38) Corporate Searches pertaining to RMA Properties Ltd. and Grosvenor Canada Limited. Additionally the Complainant provided (Exhibit C1 pgs. 39 – 41) copies of the sales transaction as reported by RealNet Canada Inc. and Commercial Edge. A copy of the City of Calgary Assessment Non Residential Sale Questionnaire (Exhibit C1 pgs. 42 – 45) completed by the purchaser. The Complainant highlighted (Exhibit C1 pg. 5) several questions from this Questionnaire which are designed to explain any abnormalities regarding the sale, if any, together with the purchaser's response to same.

[5] The Complainant also provided (Exhibit C1 pgs. 6 – 10) extracts from several Relevant Decisions from both the Court of Queen's Bench of Alberta and the Municipal Government Board which support their contention that the sale of the subject property is *prima facie* evidence of its market value. The referenced decisions are presented in full in the Appendices of the Complainant's brief.

Respondent's Position:

[6] The Respondent acknowledges the sale of the subject property and further agrees that same was an "arms-length" transaction, in fact the City has incorporated the sale of the subject property into their valuation analysis. The Respondent maintains that the Assessor is mandated, by the *Municipal Government Act* (MGA) and the *Matters Relating to Assessment and Taxation Regulation* (MRAT) to "...assess all properties using Mass Appraisal standards" (Exhibit R1 pg. 4). The Respondent goes on to explain (Exhibit R1 pg. 6) "The purpose of property assessments is not to reflect one sale price, but to assess all similar property at a similar value so that taxation is fairly and uniformly distributed among all taxable property".

[7] In order to derive the assessed value for the subject property, the Assessor has employed the Income Approach to Value wherein the estimated net operating income of the property, which they maintain is based upon typical rental and expense inputs, is capitalized at what the Respondent maintains is a market derived capitalization rate. Based upon the foregoing, the Respondent produced (Exhibit R1 pg. 68) their *2013 Beltline Office Capitalization Rates* study which incorporates an analysis of five (5) sales, including the subject, of 'B' Class office buildings. The buildings analyzed range in size from approximately 35,173 Sq. Ft. to approximately 137,801 Sq. Ft. and had sales recorded between August 2011 and January 2012. Their analysis concluded capitalization rates ranging from a low of 3.63% to a high of 6.53% with a mean of 5.18% and a median of 5.25%. The Respondent concluded that a capitalization rate of 5.25% is appropriate for 'B' Class office buildings located in the Beltline. Applying this 5.25% capitalization rate to their estimated Net Operating Income (NOI) for the subject results in the assessed value of \$33,270,000 (Exhibit R1 pgs. 12 – 13).

[8] The Respondent also provided (Exhibit R1 pgs. 70 – 71) their *2013 Beltline Office Time Adjustment* study based on an 18 month period of time trended *sales to assessment ratios* (SAR). This study concludes a monthly adjustment factor of +.0166 which, if applied to the sale of the subject for a six month period equates (Exhibit R1 pg. 88) to a time adjusted sales price of \$31,668,480 which, the Respondent contends, provides additional support to the assessed value.

Complainant's Rebuttal:

[9] The Complainant provided a Rebuttal (Exhibit C2) wherein the *2013 Beltline Time Adjustment* as prepared by the Respondent is questioned on the basis that: 1) based upon the Assessment Guidelines recommendation of a minimum of 15 validated sales, insufficient transactions were utilized and 2) none of the sales used have an ASR that falls within the target range of 95% to 105% of the sales price.

[10] The Complainant also indicates (Exhibit C2 pg. 4) that the assessed value of the subject property varied by approximately 100% between 2012 (\$16,010,000 assessed value) and 2013 (\$32,270,000 assessed value). (sic) The sales price of the subject was not an aberration as the property had been listed for sale in 2009/10 for \$28 million.

Board's Decision Reasons:

[11] The Respondent contends that they are mandated to "...assess all properties using Mass Appraisal standards" (Exhibit R1 pg.4). This is incorrect as the Valuation Standard for a parcel of land is **market value** (MRAT 4(1)(a)) and the Valuation Standard for improvements is **market value** (MRAT 5(1)(b)). Mass appraisal means the **process** of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing (MRAT 1(k)). (Emphasis added).

[12] The Board finds that the assessed value of the subject property equates to an ASR of 1.15 which does not fall within the target range of 95% to 105% of the sales price and which should provide the Assessor with an indication of error.

[13] The Board concurs with the findings of Madame Justice L. D. Acton in ABQB 512 which states: "*It is for that reason that the recent free sale of the subject property is generally accepted as the best means of establishing the market value of that property.*" and further "*...I think that generally speaking the recent sales price, if available as it was in this case, is in law and, in common sense, the most realistic and most reliable method of establishing market value.*"

DATED AT THE CITY OF CALGARY THIS th 14 DAY OF June 2013.


C. J. Griffin

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
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 MGB Administrative Use Only

Municipality: Calgary	Decision No. 70726/P-2013	Roll No: 201635919
<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u> <u>Sub-Issue</u>
Office	Beltline Hi-Rise	M.V. Sale of Subject