

## **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:

***Inertia Partners Inc.(as represented by Linnell Taylor Assessment Strategies),  
COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before:

***K. D. Kelly, PRESIDING OFFICER  
R. Roy, BOARD MEMBER  
P. McKenna, 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:

<b>ROLL NUMBER:</b>	<b>200940641</b>
<b>LOCATION ADDRESS:</b>	<b>636 – 45 ST SW</b>
<b>FILE NUMBER:</b>	<b>70279</b>
<b>ASSESSMENT:</b>	<b>\$4,010,000</b>

This complaint was heard on 23<sup>rd</sup> day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *D. Sheridan – Linnell Taylor Assessment Strategies*

Appeared on behalf of the Respondent:

- *M. Ryan – Assessor – City of Calgary*
- *D. Gioia – Assessor – City of Calgary*

**Regarding Brevity**

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None

**Property Description:**

[3] The subject is a three year old 12,408 SF (corrected) two storey multi-tenant suburban office building with basement, located in the Westgate district of Calgary. It is assessed for 27 enclosed parking stalls and 13,028 square feet (SF) of office space predominantly leased for medical purposes. The office space is assessed at \$18 per SF, with "operating costs" of \$12.50 per SF. The property is located at the intersection of Bow Trail SW and 45 ST SW. The total assessed value of the subject is \$4,010,000.

**Issues:**

- [4]
1. What is the correct assessable area of the subject, and
  2. What is the correct vacancy allowance that should be applied in calculating the assessment of the subject?

**Complainant's Requested Value:**

[5] The Complainant requested that the assessment be reduced to \$3,210,000.

**Board's Decision:**

[6] The Board reduced the assessment to \$3,820,000.

**Legislative Authority, Requirements, and Considerations:**

[7] Under the *Municipal Government Act* (MGA), the Board cannot alter an assessment which is fair and equitable.

[8] MGA 467 (3) states:

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the valuation and other standards set out in the regulations, the procedures set out in the regulations; and the assessments of similar property or businesses in the same municipality."

[9] The Board examines the assessment in light of the information used by the assessor and the additional information provided by the Complainant. The Complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities. If the original assessment fits within the range of reasonable assessments and the assessor has followed a fair process and applied the statutory standards and procedures, the Board will not alter the assessment. Within each case the Board may examine different legislative and related factors, depending on what the Complainant raises as concerns.

**Positions of the Parties****(a) Complainant's Position:**

[10] The Complainant provided his Brief C-1 and argued that the assessable area of the subject is incorrect. He provided alternate calculations prepared by an independent company "Measure Masters" which recorded the assessable area as 12,408 SF instead of the assessed 13,028 SF.

[11] The Complainant also provided the rent roll for the subject which demonstrated that 17.56% of the site was leased to an educational enterprise, while 58% was leased to medical practice. The remaining approximately 26% of the site was vacant. He argued that this vacancy is chronic, and the 5% vacancy allowance provided by the City for the subject in its assessment calculations, is inadequate and should be 15%.

[12] The Complainant reiterated that the vacant space problem in the subject has been chronic, and the space has not been leased in the three years since the site was built. He offered his views as to why this might be the case, given the subject's relatively new condition and excellent location on major road systems in the city.

[13] The Complainant provided a copy of the City's Income Valuation of a two-year old office property at 5340 - 1 ST SW he considered comparable to the subject, since it was similar in size and was also being used for medical purposes. He noted that it had been assessed using a typical 15% vacancy rate, and he argued that this is inequitable. The Complainant provided a copy of Calgary assessment Review Board Decision CARB 1115/2012-P in support of his position on this issue.

[14] The Complainant noted in his rebuttal document C-2 that the City, after having reviewed the Complainant's initial submission and Summary of Testimonial Evidence has introduced two additional matters, suggesting that the "Op Costs" and office "rent rate" used to assess the subject are in error. The Complainant provided several analyses based on selected property examples to refute the Assessor's claims for increased rent and op costs, as well as the Assessor's ultimate request to increase the assessment to \$4,160,000 from \$4,010,000. He considered this to be inappropriate.

[15] In questioning the Respondent, the Complainant concluded that the City's "class rating" and the resultant rent rates applied to each class of building, was "arbitrary" and largely undocumented. He argued that several of the property comparables upon which the Respondent relied for rent values were in fact parcels assessed as "vacant land". He provided the City's "Assessment Summary Reports" and "Income Approach to Value" calculations for the parcels in support of this argument. He argued that these examples do not support the City's ultimate request to increase the assessed rent from \$18 per SF to \$24 per SF. He argued that the City also has no documented support for its requested increase in op costs from the assessed \$12.50 per SF to \$15 per SF.

[16] The Complainant requested that the assessment be reduced to \$3,210,000 based on a corrected assessable area and a 15% chronic vacancy allowance.

**(b) Respondent's Position:**

[17] The Respondent presented his Brief R-1 and clarified that the City agrees with the Complainant that the total assessable area of the subject as assessed at 13,028 SF is incorrect and should be 12,408 SF and that there are 26 parking stalls.

[18] The Respondent also clarified that the City agrees with the Complainant that the vacancy rate should be increased from 5% to 15%, but not based on a chronic vacancy situation, but instead because medical/dental offices typically experience 15% vacancy. The Respondent denied that the subject suffers from chronic vacancy. He argued that chronic vacancy is not a defined term but instead is a reflection of market conditions.

[19] The Respondent advised that the Assessor had erred in assessing the subject for 2013 because while the subject was coded correctly in the City's system, incorrect assessment parameters for op costs and rent rates had been applied. He noted that an Amended Notice correcting the assessment could not be issued because the current assessment is under appeal today before this Board.

[20] The Respondent argued that if the Board were to adjust the current assessment, then rent rates of \$24 per SF typical for medical offices, and typical \$15 per SF op costs must be applied to the corrected assessable area calculations and corrected 15% vacancy allowance.

[21] The Respondent advised the Board that while he was requesting an increase in the op costs for the subject, he had forgotten to provide documentary support for this value. Nevertheless, he provided several equity examples from two property comparables in support of his request for a \$24 per SF rent rate. As noted in paragraph [15] above, the Complainant disputed the validity and reliability of these examples.

[22] The Respondent, requested based on the foregoing amendments to the assessment parameters, that the Board increase the assessment from \$4,010,000 to \$4,160,000.

**Board's Reasons for Decision:**

[23] The Board finds that the original two issues before the Board as raised by the Complainant, relate to assessable area in, and the vacancy allowance applied to, the subject.

[24] The Board finds that while the Respondent raised two other matters, related to rent rate and Op Costs, the Respondent confirmed to the Board that they had provided no documented support for the latter.

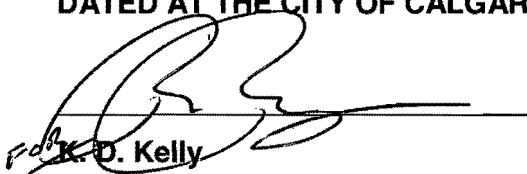
[25] The Board finds that the comparable property rent data provided by the Respondent in support of an increase in rent rate from the assessed \$18 per SF to \$24 per SF is questionable; the Board concurs with the arguments of the Complainant on this point.

[26] The Board finds that it is not persuaded that the vacancy in the subject is "chronic" and therefore it declines to accept the Complainant's argument on this issue.

[27] The Board finds that the Respondent provided insufficient documentary evidence for the Board to consider an increase to the assessment.

[28] The Board finds that the Assessable area for the subject is incorrect at 13,028 SF and should be 12,408 SF and the parking should be 26 stalls. Hence the Board is prepared to reduce the assessment based on a correction to the assessable area alone.

DATED AT THE CITY OF CALGARY THIS 20<sup>th</sup> DAY OF August 2013.

A handwritten signature in black ink, appearing to be 'K. D. Kelly', written over a horizontal line.

Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C-1	Complainant Disclosure
2. C-2	Complainant Disclosure - Rebuttal
3. R-1	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.*

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<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	commercial	Suburban office	market value	Assessment parameters