



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:

W. Chan Investments LTD. (as represented by MNP LLP.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Golden Board Chair, PRESIDING OFFICER
A Huskinson, BOARD MEMBER
T Usselman, 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: 201077187

LOCATION ADDRESS: 1711 4 ST SW

FILE NUMBER: 70438

ASSESSMENT: \$8,090,000

This complaint was heard on 17 day of July, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *G. Worsley*
- *J. Langelaar*

Appeared on behalf of the Respondent:

- *R. Urban*

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

- [1] There were no procedural issues in this case.

Property Description:

The subject property is a C class office building constructed in 1963 containing 36,132 square feet (sq ft) of area. Uses in the building include offices and retail and the assessment is based on an income approach. The income parameters of cap rate and vacancy are in dispute for the office area only.

Issues:

- [2] **Issue 1** Is the cap rate of 5.25% the appropriate rate to be used in the preparation of the assessment?
- [3] **Issue 2** Is the vacancy rate of 8% the correct typical market rent to be used in the income calculation?

Complainant's Requested Value: \$5,030,000

Board's Decision:

- [4] The complainant is partially accepted and the assessment is reduced to \$5,170,000

Board's Decision on Issue 1

Position of the Parties

Complainant's Position:

[5] **Issue 1** The cap rate of 5.25% is the appropriate rate to be used in the preparation of the assessment.

Complainant's Position:

[6] The Complainant stated that the Respondent should not apply the 5.25% cap rate to the subject which is a C class building as the cap rate study was based on B class office buildings and then arbitrarily applied to all C class buildings. Rather the Board should consider two sales of two C class office buildings namely buildings at 123 12 AV SE and 1410 1 ST SW. The building at 1410 1 ST SW is assessed as B class however only achieves C class rents and should be considered as a C class. Using the net income from these sales a more appropriate cap rate of 8.75% is developed. ASR rates were also submitted to the Board to support the general argument regarding over assessment.

Respondent's Position:

[7] The Respondent questioned the nature of the sales in the Complainant's presentation. In the case of 123 12 AV SE the property was not purchased for rental income as shown the City Sale Questionnaire. The property at 1410 1 ST SW was not included in the analysis as the sale represented a vendor purchaser connection and the building was not purchased for rent income purposes.

[8] The B class buildings were included in the cap rate study conducted by the respondent because of the lack of sales.

[9] **Board's Reasons for Decision:**

[10] The Board found the Complainant's evidence was insufficient to compel the Board to change the cap rate applied by the Respondent. The sales presented by the Complainant were successfully challenged by the Respondent and the Board agrees that sufficient questions surround the sale as to limit the value of using them in the cap rate analysis. The Board also notes the sales are not similar to the subject further weakening the argument.

Board's Decision on Issue 2

[11] **Issue 2** The vacancy rate of 8% is is adjusted to 30% recognize the vacancy situation specific to this structure.

Complainant's Position:

[12] The Complainant stated that the Respondent's vacancy study combined many different classes of office buildings and distorted the C class office vacancy rates. The Board was presented with 19 vacancy comparables for C class buildings representing a 23.42 % vacancy. As a support to the vacancy argument the Complainant submitted to the Board the rent rolls for 2009 through 2012 to support a request of 30% vacancy.

Year	Vacant space	Vacancy
2009	11,058	39.6%
2010	16,364	58.7%
2011	15,815	56.7%
2012	16,976	60.9%

Respondent's Position:

[13] The Respondent presented the 2013 Beltline Office Vacancy Study which demonstrates a typical vacancy rate to be 8.17%. Since the Respondent was of the opinion that all offices in the Beltline area compete for clients it was reasonable to combine all classes in the study. It was however noted that if all C buildings in this table are considered separately the vacancy rate would be 12.4%.

[14] In terms of chronic vacancy the Respondent stated that chronic vacancy is not recognized any longer. In addition there was no proof that the property was exposed to the market for lease and the vacancy is related to a management issue.

Board's Reasons for Decision:

[15] Although the Board found that the list of vacancy comparables to be less complete than the Respondent's the issue of the chronic vacancy was apparent. The rent rolls were accepted as a demonstration of an ongoing rental issue that should be recognized as having an impact on market value. The Respondent's position that the property was not proven to be exposed to the market was weakened by the introduction of photos indicating signs posted to attract renters. The Complainant presented strong evidence and the Board accepted that an adjustment to 30% vacancy is appropriate.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF August 2013.



Tom Golden

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. 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.*

Roll	Address	Subject	Issue	Detail	Sub Detail
201077187	1711 4 ST SW	office	Income	Vacancy, cap rate	