



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

L. Yakimchuk, PRESIDING OFFICER
E. Reuther, BOARD MEMBER
A. Zindler, 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: 079009700
LOCATION ADDRESS: 1812 4 St SW
FILE NUMBER: 70441
ASSESSMENT: \$8,690,000

This complaint was heard on October 1, 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:

- *W. Van Bruggen, MNP LLP*

Appeared on behalf of the Respondent:

- *C. Fox, City of Calgary Assessor*

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

- [1] There were no procedural or jurisdictional matters.

Property Description:

- [2] The subject property has been assessed as a 1960, "C" Class, 40,715 square foot (sf) office building in the Calgary Beltline area.

Issues:

- [3] Is the Income for this property assessed correctly. Specifically, the Complainant is asking for an increase in vacancy rate from 8.00% to 20.00% and an increase in Capitalization (Cap) rate from 5.75% to 7.25%.

Complainant's Requested Value: \$5,410,000

Board's Decision:

- [4] The Board confirms the assessment at \$8,690,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000 Section 460.1:

- (2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

For the purposes of this hearing, the CARB will consider MGA Section 293(1)

In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

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.

and MRAT Section 4(1), which states that

The valuation standard for a parcel of land is

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

Position of the Parties

Complainant's Position:

[5] W. Van Bruggen (MNP), argued that the vacancy rate for the subject property had been incorrectly set at the typical rate of 8.00%. He presented an MNP Beltline "C" Class Office Vacancy Study (C1p14) which included only "C" Class office buildings, excluding condominium offices, buildings with medical or dental services, and some mixed use retail/office buildings. The resulting vacancy rate was 21.80%, which he truncated to a request of 20% Vacancy.

[6] The Complainant also argued that the Cap rate was incorrectly assessed because the City Cap Rate Study for "B" and "C" Class buildings included only "B" Class buildings. He went on to present two "C" class sales which he believed were overlooked by the Respondent. 1410 1 St SW, the first of these two sales, is actually a "B" class building, but the Complainant believed it should be considered "C" class because it commanded a very low sale price. The MNP Derived Cap Rate for that property was 6.85%. The other building was 133 12 Av SE, which sold for \$2,166,000 on January 12, 2012, with an MNP Derived Cap Rate of 7.90%. The Average Cap Rate for the study was 7.38% and MNP requested 7.25% be applied for the purpose of the subject assessment. (C1p16)

[7] In Rebuttal the Complainant produced a new MNP Capitalization Rate Study for Beltline Offices using "B" and "C" class offices. The sales used in the study included the Duff Building, Alberta Place, Dominion Centre and the Connaught Building. The MNP calculated Cap rates for these buildings was 6.96% (average) and 6.84% (median). (C2 p32)

[8] In addition the Complainant presented a third study (C2p58,59) which included the previous four properties plus two properties from the City of Calgary study (The Keg Building and Cooper Block Building) and resulted in an MNP Derived Cap of 6.23% (average) and 5.81%

(median).

[9] The Complainant also provided documentation to support the validity of all sales used in the Cap rate studies.

Respondent's Position:

[10] C. Fox, City of Calgary Assessor, presented the City of Calgary Vacancy study (R1p154-157) which supported the subject assessment, and a response (R1,p41-50) which showed the properties the Complainant had removed from the study with City comments as to why they should be part of the study (R1p102). He included Assessment Requests for Information to support the actual vacancies of properties included in the City study, but excluded by the Complainant. (R1p55)

[11] The Respondent also provided a response to the Complainant's "C" Class Cap Rate Analysis on C1p15, noting that the Complainant had reduced the value of 119 123 12 Av SE by \$784,000 from \$2,950,000 to \$2,166,000 because the Calgary Assessment website showed the land had a value of \$784,000. He argued that the property was assessed on the Income Approach, not the Cost Approach. The second property (1410 1 St) in the analysis is a "B" class property with some questions about whether it was a market value transaction. (R1p184).

[12] The City of Calgary 2013 Beltline Capitalization Rates showed a Median Cap Rate of 5.25% and an Average Cap Rate of 5.18%. (R1p327). The Respondent explained that the Cap Rate was calculated using parameters from the nearest July 1, in keeping with the Notice of Decision No. DL019/10 (found on R1p469-473), p3 of 5: *"The MGB has in several past decisions stated that a cap rate applied to NOI based on typical factors (inputs) must be a cap rate that also has been derived using typical NOI factors. In this case the MGB also finds that 2007 typical factors should be used when analyzing the 2007 sales and that 2008 typical factors should be used when analyzing the 2008 sales. The appellant used 2008 typical factors for all sales and adjusted some typical rental rates in their cap rate analysis. The MGB finds the Appellant did not use 2007 typical factors for the 2007 sales in their cap rate analysis."*

Board's Reasons for Decision:

[13] The Board considered the arguments presented by both parties. The Complainant had removed many buildings from its Vacancy study for subjective reasons which were not adequately supported. The City of Calgary Vacancy study included all office buildings which were predominantly office space and provided the more accurate estimate of Vacancy in the City of Calgary. For this reason, the Board confirms the office Vacancy rate of 8.00%.

[14] The Complainant had presented three options for Cap rate studies. The proposed Cap rates ranged from 7.38% to 6.00%. The Respondent used 5.75% for a typical Cap Rate. This Cap rate was calculated using the guideline cited in paragraph [12] above.

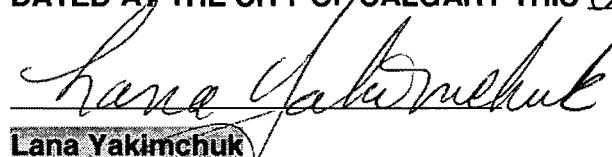
[15] The Complainant and the Respondent both used the Connaught Building, which sold on January 18, 2012 for \$29,850,000 resulting in a Cap rate of 4.80%. This rate supports the typical rate used by the City, and does not support an increase in Cap rate.

[16] The Board considered the direction given by Board Order: MGB 045/09 (p16 of 29): *"Although the MGB is satisfied that the Appellant's favoured approach is reasonable, the evidence does not show that it is better than the Respondent's. In this regard, the MGB notes that the Respondent's method did result in assessments that met Provincial audit, and therefore must have generated acceptable ASRs on an overall basis for property classes where sales occurred."*

[17] The Cap rate approach by the City of Calgary is reasonable and consistent and has met the audit standards. It uses typical factors for each year to analyze typical sales for that year. This approach is supported by the resulting Cap rate for a recent sale included in both Party packages. The result does not support an increase in Cap Rate to 7.25%.

[18] The Board confirms the Cap rate at 5.75%.

DATED AT THE CITY OF CALGARY THIS 23 DAY OF October 2013.



Lana Yakimchuk

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2 (a,b,)	Complainant Disclosure
2. C3 (a,b,c)	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.*

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Office	Low Rise	Income Approach	Cap, Vacancy