



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:

MIDNAPORE MALL LTD.

Complainant

and

THE CITY OF CALGARY

Respondent

before:

**T. Shandro, PRESIDING OFFICER
J. Kerrison, BOARD MEMBER
D. Morice, 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:	156128308
LOCATION ADDRESS:	240 Midpark Way SE, Calgary, Alberta
FILE NUMBER:	70551
ASSESSMENT:	\$26,470,000

This complaint was heard on September 5, 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, Agent, MNP LLP
- G. Worsley, Agent, MNP LLP

Appeared on behalf of the Respondent:

- J. Lepine, Assessor, The City of Calgary

Procedural or Jurisdictional Matters

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

Property Description

[2] The subject property is assessed as a neighbourhood retail shopping centre on a 310,980 square feet ("SF") parcel. It includes two buildings: one is a mall assessed as 135,781 SF, which was constructed in 1979; and a pad restaurant assessed as 3,761 SF.

[3] The subject property is assessed, using the income approach, with an original value of \$30,701,700. There is an exempt tenant, Alberta Health Services, and the exempt area is assessed to have an area of 22,555 SF and a value of \$4,230,000 (the "AHS Area"). After the deduction of the AHS Area, the assessed value of the subject property is \$26,470,000.

[4] The Income Approach Valuation provided by the Respondent indicates the following sub-components.

- 1) Value Village, assessed as "Big Box 14,001-40,000 SF", is 23,000 SF and a rental rate of \$15.00/SF was used (the "VV Area").
- 2) AHS Area is assessed as "CRU 14,001+ SF" with a rental rate of \$15.00/SF.
- 3) 842 SF was assessed as "CRU 0-1,000 SF".
- 4) 10,975 SF was assessed as "CRU 1,001-2,500 SF".
- 5) 10,655 SF was assessed as CRU 2,501-6,000 SF".
- 6) 24,651 SF was assessed as CRU 6,001-14,000 SF" (the "CRU 6,000+ Area").
- 7) 26,870 SF was assessed as "Office" (the "Office Area").
- 8) The remaining space was assessed as "Pad Restaurant Fast Food", and "Recreational".

[5] Every sub-component above was assessed with a vacancy rate of 7.50%, except for one: the VV Area, for which a vacancy rate of 1.00% was used.

Issues

[6] In Section 4 of the Assessment Review Board Complaint, dated February 28, 2013, and received by the Board on March 1, 2013 (the "Complaint Form"), the following were marked as matters relating to the complaint:

- 1) 3, "an assessment amount"; and
- 2) 10, regarding an exemption.

[7] At the hearing the Complainant advised that the latter was marked only in the case the Board needed to address the assessed value of the AHS Area. Otherwise this was not at issue for the Complainant.

[8] The Complainant identified the issues as follows:

1. Is the VV Area incorrectly assessed as "Big Box 14,001-40,000 SF" (i.e., is the correct vacancy rate used for the VV Area)?
2. Is the correct rental rate used for the Office Area?
3. Is the correct rental rate used for the CRU 6,000+ Area?

Complainant's Requested Value

[9] In the Assessment Review Board Complaint, the Complainant requested a reduced assessment of \$20,912,000. At the hearing the Complainant amended the requested value to \$24,870,000.

Board's Decision

[10] The Board confirms the assessment of the subject property.

Issue 1: Is the VV Area correctly assessed as "Big Box 14,001-40,000 SF" (i.e., is the correct vacancy rate used for the VV Area)?

The Complainant's Position

[11] The Complainant submitted that the VV Area is 23,000 SF, and the AHS Area is 22,555 SF. One is assessed as Big Box, and the other is assessed as a CRU category. Both have the same assessed rental rate, \$15.00/SF, but they have different vacancy rates: Big Box is assessed using a rate of 1.00%, and all CRUs are assessed with 7.50%.

[12] The Complainant submitted that the VV Area was assessed as Bog Box in error, and this area should instead be assessed as the same category as the AHS Area, "CRU 14,001+". This would result in an increased vacancy rate of 7.50%.

The Respondent's Position

[13] The Respondent submitted that the AHS Area was assessed as CRU mistakenly, that it should be assessed as Big Box.

[14] Mr. Lepine, who appeared for the Respondent, advised that he searched for any other properties in the City which were assessed as "CRU 14,001+" and claimed he could not find

any. The Respondent claimed that all areas over 14,000 SF are assessed by the Respondent as Big Box. The AHS Area was an error, and Mr. Lepine claimed that it was the only space in the City which was greater than 14,000 SF which was assessed this way.

The Complainant's Reply

[15] The Complainant argued the Respondent had no evidence before the Board to confirm the claims that the subject property was the only property in the City in which a space greater than 14,000 SF was assessed as CRU and not Big Box.

Reasons for Board's Decision

[16] The Board considered that there are two spaces within the subject property greater than 14,000 SF, each assessed differently. But which one is assessed correctly and which one is an error?

[17] The Board notes that neither party presented any evidence regarding vacancy in the subject property. As well, while the Board could not consider the Respondent's claims regarding whether the AHS Area was the only space in the City assessed as a CRU, the Complainant could only present one comparable itself: the AHS Area. There is insufficient evidence before the Board to determine that the Big Box category in which the VV Area was assessed was incorrect or unfair or inequitable.

Issue 2: Is the correct rental rate used for the Office Area?

The Complainant's Position

[18] The Complainant submitted that the Respondent determined the rental rate for retail office space incorrectly, in that the Respondent assesses all retail office in the City for every classification to be \$16/SF.

[19] The Complainant argued that the rental rate should be determined by considering only office space in similar "B" quality malls in the SE quadrant. The Complainant provided its own office leasing analysis looking only at the 18 offices spaces in three "B" quality malls in the SE:

- 1) Eleven spaces in 8180 Macleod trail S;
- 2) Two spaces in 9919 Fairmont Drive SE; and
- 3) Five of the spaces in the subject property.

[20] The median rate calculated by the Complainant was \$14/SF.

The Respondent's Position

[21] The Respondent replied that it is untrue that it used \$16/SF as a rental rate for all office space in the City. The Respondent merely provided all office space comparables for all office space in the City so that the disclosure was exhaustive.

[22] The Respondent submitted that the lease comparables of the Complainant were insufficient.

Reasons for Board's Decision

[23] It appeared as though the Complainant considered only CM0203 subproperty uses for office space in SE shopping centres. The Board determined that the comparables of the Respondent reflected the market rental rates for office space more accurately.

Issue 3: Is the correct rental rate used for the CRU 6,000+ Area?

The Complainant's Position

[24] The Complainant submitted that the current leasing in the subject property did not support the assessed rate for the CRU 6,000+ Area.

[25] The CRU 6,000+ Area includes two spaces: one which is 8,201 SF leasing for \$18.50/SF; and another which is 10,300 SF leasing for \$15.00/SF. Together, those two spaces were approximately 75% of the total spaces within the "CRU 6,001-14,000" category in the SE quadrant in "B" quality buildings.

[26] The Complainant provided an analysis looking at only "B" quality malls in the SE:

- 1) Two spaces in 7740 18 Street SE;
- 2) Two spaces in 8180 Macleod Trail SE;
- 3) One space in 3200 – 17 Avenue SE;
- 4) One space in 9950 Macleod Trail SE; and
- 5) The two in the subject property.

[27] The Complainant calculated the median to be \$16.75/SF.

The Respondent's Position

[28] The Respondent advised that these properties are difficult to assess because there are so few CRUs within 6,000 and 14,000 SF. The Respondent advised that it had no evidence to refute the claims of the Complainant.

Reasons for Board's Decision

[29] As the Respondent advised that it had no evidence to refute the claims of the Complainant on this issue, the Board concludes the correct rental rate for the CRU 6,000+ Area to be \$16.75/SF.

Conclusion

[30] The Board considered the change to the value of the subject property if only the rental rate of the CRU 6,000+ Area was changed to \$16.75/SF. The change to the total assessment would be sufficiently minor to conclude that the assessed value of the subject property is neither unfair or inequitable. Market value is a range and not a specific value, and when a calculated value is with that range, the Board determines that one has achieved market value. The change which would result in changing the rental rate of the CRU 6,000+ Area would be within a small enough range to determine that the assessed value is fair and equitable.

[31] For these reasons, the Board therefore confirms the assessment of the subject property.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF September 2013.



T. Shandro
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
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 Administrative Purposes Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Neighbourhood Mall	Income Approach	Rental Rate and Vacancy