



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:

Avenida Place Ltd..(as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

P. Petry, PRESIDING OFFICER

H. Ang, BOARD MEMBER

R. Deschaine, 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: 141119800

LOCATION ADDRESS: 12445 Lake Fraser Drive S.E.

FILE NUMBER: 70553

ASSESSMENT: \$29,490,000

This complaint was heard on the 11th day of June, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *W. Melhem and J. Langelaar*

Appeared on behalf of the Respondent:

- *E. D'Altorio and G. Jones*

Property Description:

- [1] The subject is a retail strip centre located along Macleod Trail and Lake Fraser Drive in the southeast. The building is coded as an A- quality structure and was constructed in 1988. The subject property consists of 91,328 sq. ft. plus a gas bar.

Issue:

- [2] What is the correct classification for the property and what is the correct rental rate for use in the capitalized income approach?
- [3] What are the typical operating costs that would be applicable to this property?
- [4] What portion of the subject building is subject to exemption?
- [5] Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB). The only issues, however, that the parties sought to have the Composite Assessment Review Board (CARB) address in this hearing are those referred to above, therefore the CARB has not addressed any of the other matters or issues initially raised in the Complaint.

Complainant's Requested Value:

- [6] The Complainant's requests respecting each of above issues results in a proposed value of \$22,850,000.

Board's Decision:

- [7] The CARB upholds the complaint in part and reduces the overall assessment to \$27,050,000 which is made up of \$23,760,000 being the taxable portion and \$3,290,000 being the exempt portion of the assessment.

Legislative Authority, Requirements and Considerations:

- [8] The Composite Assessment Review Board (CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:

- [9] *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).*
- [10] For purposes of the 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*
- [11] The Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA section 293(1)(b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 2:
- [12] *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*

Summary of the Party's Positions

Complainant

- [13] The Complainant argued that the subject property and other similar properties cannot achieve the rental rates used by the Respondent in its determination of the assessment. The Complainant pointed out that the recent typical lease rates in the subject are well below those rates applied for class A- properties and even below the rates the Respondent applies for properties class as B+.
- [14] The Complainant referred the CARB to the City of Calgary's document which addresses its approach to determining quality classes for retail properties. It is obvious from this document that rental rates play the largest role in the determination of class.
- [15] The Complainant drew a comparison with a B+ property at 380 Canyon Meadows Drive SE. suggesting that this property is similar to the subject property. The rents achieved in this property were similar to that of the subject. The Complainant argued that the Respondent's comparable located at 12121 Lake Fraser Drive SE may be similar in location to the subject property, however it is eleven years newer than the subject and is achieving rents which justify the A- classification.
- [16] The Complainant also raised the value of \$8 per sq. ft. that the Respondent has applied for operating costs and introduced evidence to show that the actual operating cost for the subject are approximately \$12 per sq. ft. The Complainant argued that the CARB should adopt the more realistic \$12 per sq. ft. amount.
- [17] There had been some dispute respecting the exempt space and value attached thereto, however the parties were able to resolve this matter.

Respondent

- [18] The Respondent argued that the Complainant is challenging one or two components of the income approach and this not recognized as being valid. Reference was made to MGB 134/08 where in that case the MGB indicated that the change to rental rates should not be considered without considering the impact such a change may have on other factors.
- [19] The Respondent provided a number of lease comparables for properties along Lake Fraser Drive, Macleod Trail and in the Sunpark Plaza SE area to support the rental rates applicable to the A- class of properties. The Respondent highlighted the property at 12121 Lake Fraser Drive as being the best comparable having a very similar location to that of the subject.
- [20] The Respondent argued that when considering the matter of operating costs the City of Calgary combine data across the city but even if one were to split out the SE and SW the average of that data and the median support the rate of \$8 per sq. ft. used in the assessment.
- [21] With respect to the matter of exemption, the Respondent had missed some space occupied by an exempt party and when this correction is made there is no disagreement.

Findings and Reasons for the Board's Decision:

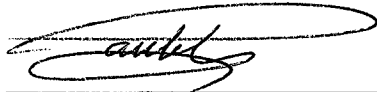
- [22] The CARB has carefully reviewed both party's evidence with respect to the question of classification and rental rates. The CARB finds that the data presented by the Complainant is compelling and consistently points to a gap in performance between the subject and other comparables classed as A-. The Respondent referred to other factors that are considered when determining classification but offered no specific evidence which would explain why the subject cannot be a class B save its location with exposure to Macleod Trail.
- [23] The Complainant provided a City of Calgary document which discusses the approach used in arriving at a property's classification.. This document titled "Physical and Economic Characteristics/Quality Classification" lists 8 factors that may impact classification but goes on to state that "all relevant physical and economic attributes of a property will manifest themselves in the property's capacity to generate income".
- [24] Based on the inability of the subject to achieve the typical income level expected for those properties in the A- class, combined with the Respondent's emphasis on the income in classification, the CARB has decided to change the classification of the subject to B+. The CARB also noted that the subject is 11 years older than the best comparable suggested by the Respondent. The typical rental rates as set out in the Complainant's evidence on page 8 of C-1 have been accepted by the CARB.
- [25] The CARB reviewed the evidence of the party's regarding operating costs and finds that the only evidence supporting the change to \$12 per sq. ft. arises from the actual experience of the subject. The CARB rejects this evidence as adequate

justification as it is not shown as being typical. The Complainant also failed to lead evidence which would explain why the subject's operating costs are higher than the balance of buildings classed as B+.

- [26] The CARB has changed the subject's classification to B+ as reviewed above along with the appropriate rental rate for that class. These changes have impacted both the taxable and exempt assessment portions. The resulting decision is the exempt value would be \$3,290,000 and the taxable portion of the assessment is set at \$23,760,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 11th DAY OF July 2013.



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 ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Strip Centre	Class A-	Class	Rental Rate