



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:

Bonavista Square Ltd..(as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Board Chair, 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: 141122200

LOCATION ADDRESS: 12101 Lake Fraser Drive S.E.

FILE NUMBER: 70555

ASSESSMENT: \$11,480,000

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 1999. The subject property consists of 31,310 sq. ft. plus two restaurant pad sites.

Issue:

- [2] What are the correct rental rates for use in the capitalized income approach for the subject property?
- [3] What are the typical operating costs that would be applicable to this property?
- [4] 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:

- [5] The Complainant's requests respecting each of above issues results in a proposed value of \$10,310,000.

Board's Decision:

- [6] The CARB denies the complaint and confirms the assessment of \$11,480,000.

Legislative Authority, Requirements and Considerations:

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

- [9] 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

- [10] 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:

- [11] *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

- [12] 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 provided leasing activities within the subject and within other properties suggested as comparable to the subject. The Complainant argued that this data shows that the Respondent has applied rates that are above typical for the subject.

- [13] The Complainant also questioned the value of \$8 per sq. ft. that the Respondent has applied for operating costs and introduced evidence to show that the actual operating costs for the subject are approximately \$12 per sq. ft. The Complainant argued that the CARB should adopt this more realistic \$12 per sq. ft. amount for the subject.

- [14] The Complainant presented recent lease rates for the two restaurant pad sites along with information about one other lease in the SE. Based on this information the Complainant requested that the pad lease rates be reduced to reflect the actual rates for the subject.

Respondent

- [15] The Respondent argued that the Complainant is challenging one or two components of the income approach and this is not recognized as being valid. Reference was made to CARB 1342/11 where in that case the CARB indicated that the change to rental rates should not be considered without considering the impact such a change may have on other factors.

- [16] 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.

- [17] 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.

Findings and Reasons for the Board's Decision:

- [18] The CARB has carefully considered the lease comparables brought forward by both parties. The CARB notes that the evidence shows that the subject is capable of achieving the rental rates used by the Assessor. The Respondent has introduced leasing comparables which general support the assessed rates.
- [19] The Complainant in this case relies on actual data for its proposed operating costs and pad site lease rates but then applies a form of typical rates for some of the commercial rent unit (CRU) spaces. There are many CARB and Municipal Government Board (MGB) decisions which have rejected the mixing of actual and typical data to derive factor values for the income approach and this CARB also finds that this is an inappropriate methodology.
- [20] Further the practice of making an adjustment to one or two factors without first considering the impact on other factors necessary for the capitalized income approach is not acceptable. The capitalization rate (cap rate) for example, must be based on the same values used in the assessment. If one changes the rental rate without completing a review of the cap rate analysis, the cap rate may be incorrect. Beyond this, the Complainant has not offered any evidence to show that by applying its new values for income and operating cost, a closer estimate of market value is achieved. In absences of these basic tests the CARB has no way of determining whether the Complainant's proposals produce an improved estimate of the subject's market value. For these reasons the CARB denies the Complaint and has not found it necessary to go more deeply into other facts of this case.

The CARB therefore confirms the assessment in the amount of \$11,480,000.

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-	Rental Rate	Operating Costs