

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:

LOUISE BLOCK CAPITAL CORP.

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:	068117506
LOCATION ADDRESS:	1018 Macleod Trail SE, Calgary, Alberta
FILE NUMBER:	70571
ASSESSMENT:	\$6,500,000

This complaint was heard on September 9, 2013, at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- W. Van Bruggen, Agent, MNP LLP

Appeared on behalf of the Respondent:

- No one appeared on behalf of the Respondent

Procedural or Jurisdictional Matters

[1] The matter was scheduled in Boardroom 8 on Floor Number 3 on Thursday, September 5, 2013, along with CARB File Number 70567, which included substantially similar arguments according to the parties, and for which the same persons would be attending on behalf of the parties. The Assessor from the Respondent who was scheduled to attend did not appear. The hearing for these two files were adjourned for a period of time on September 5, 2013, to provide the Respondent with the opportunity to have Mr. Roland Urban prepare for the hearings and attend on its behalf.

[2] The hearing of File 70567 concluded at the end of the day without time to commence the hearing for the subject property. At that time on September 5, 2013, Messrs. Van Bruggen and Urban agreed to attend before the Board regarding this matter, File 70571, on Monday, September 9, 2013, at 10:30 am.

[3] The Respondent did not appear on September 9, 2013. The Complainant appeared to attempt to contact the office of the Respondent by telephone but received no answer. The Board waited until 11:00 am and then commenced the hearing in the Respondent's absence.

Property Description

[4] The subject property is a lowrise office building, located in the Beltline Community, constructed in 1910 and is assessed to be "B" quality. It is located in the submarket area of the Beltline determined by the respondent to be "BL2". The assessed area of the building is 30,317 square feet ("SF"). There are several tenants in the subject property including:

- 1) A restaurant;
- 2) Office retail;
- 3) Office space;
- 4) Office space below grade; and
- 5) Office storage space.

[5] The office space is assessed as 16,204 SF with a rental rate of \$15.00/SF.

Issues

- [6] The Complainant identified the issues as follows:
1. Was the correct rental rate of \$15.00/SF used?
 2. Was the correct vacancy rate used?
 3. Was the correct capitalization rate used?

Complainant's Requested Value

- [7] In the Complaint Form, the Complainant requested a reduced assessment of \$5,010,000. At the hearing the Complainant amended the requested value to \$4,390,000.

Board's Decision

- [8] The Board amends the assessment of the subject property to \$5,650,000.

Issue 1: Rental rate for Office Space

The Complainant's Position

- [9] The Complainant submitted that the Respondent incorrectly calculated the rental rate for office space to be \$15.00/SF. The Complainant submitted that the Respondent considered rental rates for all of the Beltline without distinguishing submarket areas like BL2. The Complainant provided its own lease rate analysis, which distinguished the rental rates of submarket areas within the Beltline. The rental rates in the BL2 submarket area did not support the \$15.00/SF rental rate.

The Respondent's Position

- [10] Upon review of the materials submitted, the Respondent's position on this issue was unclear. A rental rate study including all submarket areas of the Beltline was provided. No calculation for the rental rate was provided nor information regarding how the rental rate was calculated by the Respondent.

Reasons for Board's Decision

- [11] The Board determined the rental rate analysis of the Complainant to be more accurate, as it distinguished the submarket area of the subject property, BL2. The Board determines the correct rental rate for the subject property to be \$12.00.

Issue 2: Vacancy rate

The Complainant's Position

- [12] The Complainant submitted that the Respondent incorrectly calculated the vacancy rate

for the subject property because it considered the vacancy rates of buildings with varying quality, including "AA", "A", and "C". Using these properties, the Respondent had calculated the vacancy rate to be 8.00%, while the Complainant argued if only "B" office space was considered, the vacancy rate should be 11.00%.

The Respondent's Position

[13] The Board considered the arguments the Respondent provided on September 5, 2013, for CARB File 70567, in which it was argued that this method of lumping all quality classes in the Beltline was consistent with what other organizations within the industry do.

Reasons for Board's Decision

[14] The Board found the evidence of the Complainant to be insufficient to amending the vacancy rate used in assessing the subject property. Considering the market evidence in the Beltline and the vacancy rate of the subject property, the Board determined that it was not incorrect to consider the vacancy rates of other quality classes of buildings.

Issue 3: Capitalization rate

The Complainant's Position

[15] The Complainant submitted that the Respondent incorrectly calculated the capitalization rate for the subject property because (a) the Respondent incorrectly considered invalid sales in its capitalization rate study; (b) the Respondent incorrectly ignored two buildings in its capitalization rate study; and (c) the Respondent's methodology in determining the income parameters of the capitalization rate study were incorrect and inconsistent.

[16] Regarding buildings in the capitalization rate study, the parties agreed on three: Dominion Place (906 – 12 Avenue SW), Connaught Centre (1207 – 11 Avenue SW) and Alberta Place (1520 – 4 Street SW). The median capitalization rate of 6.04%.

[17] The Complainant disagreed with the inclusion in the study of Cooper Blok (809 – 10 Avenue SW), and the Keg Building (605 – 11 Avenue SW), because the Cooper Blok building was allegedly a part of a portfolio sale, and the Keg sale was not exposed to the market.

[18] The Complainant further sought to have two buildings, the Duff Building (525 – 11 Avenue SW) and the Grondon Building (1451 – 14 Street SW) included as evidence.

[19] Regarding the methodology, the Complainant submitted that the Respondent uses, for the parameters within which it considers data for the capitalization rate study, dates which are incorrect and which are inconsistent with the dates within which the Respondent may determine other amounts, such as rental rates. The Complainant argued that the parameters used by the Respondent were July 1, 2010, to July 1, 2011, to calculate the capitalization rate for sales which occurred between July 1, 2011, to December 31, 2011. The Complainant submitted that the correct parameters should instead be July 1, 2011, to July 1, 2012, to calculate the capitalization rate for sales which occurred from July 1, 2011, to July 1, 2012.

[20] Using:

- 1) the parameters suggested by the Complainant;

- 2) the rental rate of \$14.00/SF for buildings in BL4;
- 3) the rental rate of \$15.00/SF for buildings in BL3;
- 4) a vacancy rate of 11% for "B" quality buildings in the Beltline; and
- 5) Dominion Place, Connaught Centre, Alberta Place, the Duff building and the Grondon building,

the capitalization rate should instead be 6.25%.

The Respondent's Position

[21] The Board considered the arguments the Respondent provided on September 5, 2013, for CARB File 70567, in which it was argued that Cooper Blok was not a portfolio sale and the Keg building may not have been listed before it was sold, but that it was a bona fide arm's length sale and therefore representative of market value.

[22] The Respondent further argued that the Duff Building was not bought for income but for flipping instead. To use it in the study would skew the results.

[23] The Respondent was not clear why the Grondon Building was not used, but it appeared from the information before the Board that the Grondon Building is located on the west side of 14 Street SW, which would place it outside the Beltline.

[24] Regarding the methodology, the Respondent submitted that it has used the same parameters for years, and in that regard its method was consistent. The Respondent further submitted that sales which occurred July to December 2011 have more in common with the rents derived from July 2010 to July 2011 than they do the rents derived from July 2011 to July 2012.

Reasons for Board's Decision

[25] The Complainant's calculation for the capitalization rate was predicated on a significant number of assumptions, such as vacancy rate and the rental rates for BL3 and BL4, for which there was insufficient evidence before the Board to agree with these assumptions.

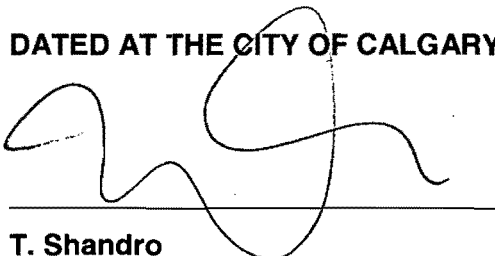
[26] Because the Board could not agree with all of these assumptions, the Board could give no deference to the calculation provided by the Complainant. The Board therefore concluded there was insufficient evidence to conclude the Respondent's calculation of the capitalization rate was either unfair or inequitable.

[27] The BL2 comparables in the evidence packages of both parties did not support the rental rate used to calculate the assessment, but it did support the Complainant's requested rate of \$12.00/SF.

Conclusion

[28] For these reasons, the Board amends the assessment value to \$5,650,000.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF October 2013.

A handwritten signature in black ink, consisting of a large, stylized 'S' shape with a horizontal line extending to the right, positioned above a horizontal line.

T. Shandro
Presiding Officer

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

NO.	ITEM
1. C-1a	Complainant Disclosure, Part 1 (pp. 1 to 67)
2. C-1b	Complainant Disclosure, Part 2 (pp. 1 to 400)
3. C-1c	Complainant Disclosure, Part 3 (pp. 401 to 600)
4. C-1d	Complainant Disclosure, Part 4 (pp. 601 to 794)
5. R-1	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
Office	Lowrise	Income	Rental, vacancy and cap