



## **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

***J-9 Capital Corp.***  
***(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:** 066085101  
**LOCATION ADDRESS:** 1451 14 St SW  
**FILE NUMBER:** 70574  
**ASSESSMENT:** \$2,940,000

This complaint was heard October 1 and 2, 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.
- [2] Both parties asked that the Cap Rate study arguments presented in CARB 70441P-2013 be brought forward to the subject argument.

**Property Description:**

- [3] The subject property has been assessed as a 1962, "B" Class, 11,259 square foot (sf) office/lowrise in the Sunalta community (BL5) of Calgary.

**Issues:**

- [4] Is the Sale Price the correct Market Value for this property?
- [5] Are the typical parameters for Rent, Office Vacancy and Capitalization (Cap) correct for the subject property?

**Complainant's Requested Value: \$2,600,000**

**Board's Decision:**

- [6] The Board reduces the assessment to \$2,600,000.

**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:**

[7] W. Van Bruggen (MNP), argued that the subject property should be assessed at \$2,600,000, to reflect the sale of that property on May 23, 2012. The Complainant provided documentation for the subject sale (C1p24,25 and C2 p594-600).

[8] The Complainant went on to argue that reducing the rent rate to \$14.00/sf from \$15.00/sf, increasing the office vacancy from 8.00% to 11.00% and increasing the Cap rate from 5.25% to 6.25% would change the assessment to \$2,510,000, more similar to the Sale price of \$2,600,000 than the assessment of \$2,940,000 (C1p7). The Complainant provided MNP analyses to support the changes in parameters.

[9] The Complainant also stated that the sale of the subject property is an arm's length Market Value sale and is being used in the City of Calgary's newest Cap rate study.

#### **Respondent's Position:**

[10] C. Fox, City of Calgary Assessor, argued that the sale of the property during the assessment year did not necessarily reflect the Mass Appraisal value. He referred the Board to R1p756, Legislative Authority for Property Assessment which cites **Matters Relating to Assessment and Taxation Regulation (MRAT)** Section 1(k) and defines "mass appraisal" as "the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing."

[11] The Respondent also cited MRAT Section 4(1):

*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.*

[12] The Respondent argued that the Assessor is compelled to use Mass Appraisal and typical parameters to equitably calculate a value for any given property.

[13] He further argued that Court of Queen's Bench Decision *ABQB 512* was a 2005 decision based on an appeal of a 2002 MGB decision made prior to revisions of the Municipal Government Act (MGA) and MRAT. The obligation placed on Assessors has changed since that time.

[14] The Respondent went on to provide Rent, Vacancy and Cap Rate studies (R1) which supported the income parameters and the method the City had used to calculate the Assessment for the subject property. He argued that changing the typical values to reach the actual Sale Value would be "Sale Chasing" and would not be an accurate Mass Appraisal strategy.

[15] The Respondent also provided arguments demonstrating flaws in the calculation of income parameters by the Complainant.

#### **Board's Reasons for Decision:**

[16] The Board considered the arguments presented by both parties. The Respondent argued that Mass Appraisal is the duty of the Assessor. The Board agreed that the method required by MRAT and by the MGA is Mass Appraisal. The ultimate purpose of the process is to calculate Market Value. In view of Court of Queen's Bench of Alberta Decision *ABQB 512*, the best estimate of Market Value is the sale of the property itself. This property sold in an arm's length transaction on May 23 of the assessment year, therefore the sale price is the Market Value.

[17] The Assessor's Income Approach calculations achieved an estimated value more than 5.00% higher than the actual sale value, which indicates that the assessment parameters for the property were inaccurate.

[18] The Complainant's Income Approach calculations resulted in a value lower than the sale price.

[19] The Board decided that the best estimate of Market Value is an open market sale, with a willing buyer and a willing seller. Neither party argued that the subject sale did not meet these criteria.

[20] The Board reduces the property assessment to the Sale Value.

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:**

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

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Office	Low Rise	Income Approach	Sale Value