

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:

MelcorDevelopments Ltd. (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

J. Massey, BOARD MEMBER

R. Kodak, 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:	058167305
LOCATION ADDRESS:	1422 KENSINGTON RD NW
FILE NUMBER:	70575
ASSESSMENT:	\$5,640,000

This complaint was heard on the 20th day of September, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8

Appeared on behalf of the Complainant:

- W. VanBruggen (MNP LLP)

Appeared on behalf of the Respondent:

- T. Johnson (City of Calgary)

Board's Decision in Respect of Procedural or Jurisdictional Matters:

- [1] There were no concerns with the board as constituted.
- [2] The parties have visited the site.
- [3] The parties have discussed the file.
- [4] There were no preliminary matters. The merit hearing proceeded.
- [5] The parties requested that all evidence, argument and discussion from Hearing #70692 be carried forward to this hearing.

Property Description:

[6] The subject property is a 0.35 acre parcel located in the Hillhurst community in NW Calgary. The site is improved with a 3 storey lowrise suburban office building, referred to as the Melcor Building. The building was constructed in 1979 and is classified as "B" quality. The building contains 18,066 square feet (sf) of office space and 5,984 sf of retail space. There are 33 parking stalls in an underground parking garage.

[7] The 2013 assessment was prepared using the Income Approach to Value, with a typical office space rental rate of \$15.00 per square foot (psf), typical retail space rental rate of \$19.00 psf and annual parking rental rate of \$1,920 per stall. Vacancy at the rate of 9.00% and non-recoverable expense allowances were deducted. The resulting net operating income was capitalized at the rate of 6.75% to arrive at an estimate of market value for assessment purposes.

Issues:

[8] An assessment amount was identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there were two outstanding issues, namely: "the office rental rate should be \$13.00" and "the vacancy rate should be 12.75%".

Complainant's Requested Value: \$4,500,000 (Complaint Form)
\$4,900,000 (Hearing)

Board's Decision:

[9] The 2013 assessment is confirmed at 5,640,000.

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).

MGA requires that:

- 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) requires that:

- 2 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.
- 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.

Board's Decision in Respect of Each Matter or Issue:

Issue: What is the net market rent to be applied in the Income Approach to value, to determine the market value, for assessment purposes?

Complainant's Position:

[10] The Complainant's Disclosure is labelled C-1(70692).

[11] The Complainant advised that when the City of Calgary determines the assessed lease rate they use the median of all leases in the area. The Complainant submitted that the trouble with this approach is that it gives the same weight to small spaces as it does to large areas which are leased. The Complainant, citing MGB 045-09, noted it had been determined that, the best way to avoid the problem of different sized office space leasing was to use a weighted average. The Complainant submitted that it has used the weighted average when considering leasing activity and determined that while the median of market leases may be \$15.00 psf, the weighted average of market leases is \$13.00 psf.

[12] The Complainant, at page 21, provided a table titled, MNP's "B" Class Lease Analysis (NW), which contains information from 30 leases dated July 1, 2011 to July 1, 2012. The lease rates range from \$10.00 psf to \$18.00 psf with a median of \$13.50 psf and a weighted average of \$12.28 psf. The Complainant requested a net market rent of \$13.00 psf be applied to determine the market value.

[13] The Complainant, at page 22, reconfigured the study to 3 main submarket areas, and determined the weighted average is well below the assessed rate of \$15.00 psf for both Centre Street and Kensington, while North of 16th Ave. the weighted average is \$14.74 psf.

Respondent's Position:

[14] The Respondent's Disclosure is labelled R-1(70692).

[15] The Respondent, at page 24, provided a table titled, 2013 Suburban Office Rental Analysis: B Quality NW. The table contains information on 41 leases with start dates from July 1, 2011 to July 1, 2012. The lease rates range from \$10.00 psf to \$25.00 psf. The Respondent noted the median lease rate is \$16.00 psf and the weighted mean of the lease rates is \$14.46 psf which support the lease rate of \$15.00 psf that is applied in the assessment.

[16] The Respondent, at page 25, provided a table titled, 2013 Suburban Office Rental Analysis: B Quality NW (response to Complainant's evidence). The Respondent noted that changes had been made to 3 areas and 1 lease term which resulted in the weighted mean being increased to \$14.78 psf.

Complainant's Rebuttal Position:

[17] The Complainant's Rebuttal Disclosure is labelled C-2(70692).

[18] The Complainant, at page 3, provided a table titled, Lease Terms. The table is an excerpt from the City's Office Rental Analysis. The Complainant noted the lease terms range from 1 to 10 years, the average lease term is 4.25 years and the median lease term is 5 years.

[19] The Complainant, at page 4, provided a table titled, 1 Year Lease Analysis, noting the weighted mean lease rate of all 1 year leases in the analysis is \$18.36 psf. The Complainant submitted that, 1 year leases generally have a higher rate, are not reflective of market leasing activity and should not be considered in the leasing analysis.

[20] The Complainant, at page 5, provided an excerpt from the rent roll for unit 0320, 1167 Kensington Crescent, noting the lease is dated (signed in 2007) and should not be considered in the analysis.

[21] The Complainant, at pages 6 and 7, provided an aerial photo and a street level photo to demonstrate that 1835 20 AV NW is a "home conversion", and the leasing activity as evidenced on page 20, would suggest it is achieving lease rates of an "A" class property. The Complainant submitted the two 5 year leases should not be considered in the analysis.

[22] The Complainant, at page 8, provided the Assessment Summary Report for 1010 1 AVE NE, noting that it is a Medical/Dental use and should not be considered in the analysis.

[23] The Complainant, at pages 10 and 11, provided the rent roll for 1121 Centre ST NW noting there are two additional leases that should be included in the analysis.

[24] The Complainant, at pages 15 and 16, provided the rent roll for 1240 Kensington RD NW noting there are two leases in that property that should be included in the analysis.

[25] The Complainant, at page 23, provided a table titled, Leasing Activity for 1167 Kensington CR NW, noting that it is achieving rents beyond "B" class properties and should not be considered in the analysis.

[26] The Complainant, at page 32, provided a table titled, MNP's "B" Class Lease Analysis (NW), which results from all of the additions and deletions mentioned above. The table contains 33 leases with lease rates ranging from \$10.00 psf to \$19.00 psf. The median lease rate is \$14.00 psf and the weighted average of the lease rates is \$12.74 psf. The Complainant submitted the analysis supports the requested rate of \$13.00 psf.

[27] The Complainant, at page 33, provided a table titled, MNP's Sales Analysis. The table contains information on the sales of 3 "B" class office buildings and one "C" class office building. The Complainant noted the table was comprised of the City's sales information from page 33 of R-1, redone to include "below grade" office space. The sale prices range from \$125 to \$209 psf. The Complainant noted the requested assessment is \$177.65 psf.

Board's Reasons for Decision:

[28] The Board finds the Respondent's evidence more compelling. The Respondent's lease analysis is inclusive of all activity in the market, whereas the Complainant has eliminated all 1 year leases and excluded several others. The Board cannot find any evidence to support the removal of 1 year leases. The Board notes that the Complainant's market evidence on page 20 of C-2, contradicts its assertion that one year leases have higher rates than longer term leases.

[29] The Complainant deleted two leases from 1835 20 AV NW because it claimed the property was achieving lease rates of an "A" class office, but there was nothing in evidence to support the assertion that it was an "A" class office building. In addition, the Complainant deleted a lease at 1167 Kensington CR NW asserting the lease was dated, when in fact, there was a new lease signed on May 1, 2012 (R-1 P32).

[30] The Board notes there are 4 leases for 2012 in the Kensington area. The weighted average of those 4 leases is \$16.33 psf, which supports the assessed rate of \$15.00 psf.

[31] The net market rent to be applied in the Income Approach is confirmed at \$15.00 psf.

Issue: What vacancy allowance should be applied in the Income Approach to value to determine the market value, for assessment purposes?

Complainant's Position:

[32] The Complainant, at page 25, provided a table titled, MNP's "B" Class Office Vacancy Study (NW), which contains vacancy information on 39 properties. The table excludes "C" class offices and Medical/Dental offices. The vacancies range from 0% to 100% with an average of 12.79%. The Complainant requested that a vacancy allowance of 12.75% be applied for assessment purposes.

[33] The Complainant noted that the Respondent's table incorrectly identifies 2540 Kensington RD NW as 0% vacant, when in fact it is 100% vacant and will remain so for all of 2013 as evidenced by the letter from Humford Management Inc. on page 193(C-1). The building is being renovated.

[34] The Complainant, at page 202, noted that Medical/Dental Offices have their own vacancy analysis, and were not included in its analysis.

[35] The Complainant submitted that only "B" class offices excluding Medical/Dental should be considered in the vacancy study.

Respondent's Position:

[36] The Respondent, at page 47, provided a table titled, 2013 Suburban Office Vacancy Summary, which contains vacancy information on 54 suburban offices. The vacancies range from 0% to 100% with an average of 9.15%. The Respondent noted the subject is 14.95% vacant and that a vacancy allowance of 9.00% was applied in the assessment.


[37] The Respondent advised that the vacancy at 2540 Kensington RD was initiated by the owner in advance of a sale.

Board's Reasons for Decision:

[38] The Board finds the Respondent's evidence more complete. On closer examination, the Board finds the Respondent's average vacancy rate for the Kensington area is 5.9% while the Complainant's average vacancy rate for the Kensington area is 4.6%, both of which are less than the 9.00% allowance provided in the assessment.

[39] The vacancy allowance to be applied in the Income Approach is confirmed at 9%.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF October 2013.


B. Horrocks

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C1(70692)	Complainant Disclosure
4. R1(70692)	Respondent Disclosure
5. C2(70692)	Complainant Rebuttal

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 Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Office	Low Rise	Income Approach	Rent rate & Vacancy