



**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:**

***Aspen Properties (Northland Place) Ltd. (as represented by MNP LLP), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***H. Kim, PRESIDING OFFICER***

***P. Charuk, BOARD MEMBER***

***J. Pratt, BOARD MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>068052596</b>
<b>LOCATION ADDRESS:</b>	<b>401 4 Ave SW</b>
<b>FILE NUMBER:</b>	<b>70590</b>
<b>ASSESSMENT:</b>	<b>\$17,380,000</b>

This complaint was heard on the 31<sup>st</sup> of July, 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:

- *G. Worsley*
- *W. Van Bruggen*

Appeared on behalf of the Respondent:

- *R. Ford*

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

#### **1. Evidence and Argument Carried Forward**

[1] The subject property was one of three B class office buildings in downtown Calgary under complaint by the Complainant's representative with broadly similar issues and argument to be considered. The Complainant requested that one property be considered in detail but requested that their presentations be carried forward to the other complaints with small modifications to the submissions based on site specific details. The Respondent agreed that it would be expedient to present their position on the three files in that manner.

[2] As the parties were in agreement, the Board agreed to proceed on that basis, and this order makes reference to the positions and findings in CARB 70589P-2013.

#### **Property Description:**

[3] The subject is a 3 storey, 24,576 sf office building known as Northland Place. It is located in the DT1 Sub Market area of downtown Calgary, constructed in 1996 on a 12,363 sf parcel of land. It is assessed on the income approach to value using the City's 2013 parameters for B class office buildings in DT1: 16,408 sf office space at a market net rental rate of \$22/sf, 8,168 sf retail main level at \$16/sf and 91 parking stalls at \$4,800 per annum, for a potential net income of \$928,464. Vacancy of 1.5% for office, 7.75% for retail and 2% for parking is deducted. Vacant space shortfall based on operating costs of \$17/sf office and \$20/sf retail, and 2% non recoverables are applied and the resulting net operating income is capitalized at 5.0% to arrive at the assessment under complaint.

#### **Issues:**

[4] The Complaint form identified a number of reasons for complaint; however at the hearing the following issues were argued:

1. The capitalization rate should be increased to 6.0% from 5.0%
2. The retail rental rate should be \$32 instead of \$16 to reflect actual.
3. The value using the requested parameters is a better approximation of market value as evidenced by the selling price in December 2011.

**Complainant's Requested Value: \$16,460,000**

**Board's Decision:**

- [5] The assessment is reduced to \$16,500,000

**Issue 1 - Capitalization Rate:**

- [6] The capitalization rate should remain at 5.0% and not be increased to 6.0% for the reasons detailed in CARB70589P-2013.

**Issue 2 - Retail Rental Rate:****Complainant's Position:**

- [7] The Complainant presented the December 2012 rent roll for the subject property to demonstrate that the main floor retail space achieves rent of \$25 to \$41/sf with leases that commenced in January and August 2012. There are a range of lease rates that the Respondent applies, as shown on the Assessment Explanation Supplement (AES) for other buildings that are assessed with Market Net Rental Rate for retail main level from \$26/sf to \$36/sf. The subject building should be assessed with the main level retail at \$32 and a cap rate of 6.0%.

**Respondent's Position:**

- [8] The Respondent noted that the Complainant did not have any disagreement with the \$16/sf rate applied to 444 5 Ave, just diagonally on the other side of the block from the subject. The higher rates applied to the retail main levels presented by the Complainant are for space on Stephen Avenue Mall, in predominantly retail or higher classed buildings and would not be applied in the subject property. The Respondent presented the AES for other B class buildings to show that the \$16 rate applied

**Findings and Reasons:**

- [9] The Board does not agree that the lease rate achieved by the subject property is not typical for this type of building, however the Market Net Rental Rate for the retail main level should not be changed. The decision on Issue 1 was to retain the 5.0% cap rate, and under those circumstances increasing the retail main level rental rate would result in a value far in excess of market value.

**Issue 3 – Sale price of subject property:****Complainant's Position:**

- [10] The Complainant presented the argument for increased cap rate and retail rental rate based on the analysis showing that the requested parameters result in a value of \$16,460,000 which is a better approximation of market value, since the subject building sold for \$16,500,000 on December 2, 2011.

- [11] The Complainant noted that the 2013 assessment of \$11,200,000 for the Leeson and Lineham building is also considerably higher than its \$10,500,000 selling price in January 2012. This demonstrates that the parameters applied are incorrect. The Complainant presented an analysis of the Leeson and Lineham building using the requested parameters, which resulted in a value of \$10,270,000.

- [12] The assessment under complaint is much higher than the selling price and demonstrates

that the income parameters applied are incorrect.

**Respondent's Position:**

[13] The Respondent stated that the assessment is based on mass appraisal and that the 2013 assessment represents an Assessment to Sale Ratio (ASR) of 1.05 for the subject sale. With mass appraisal, a range of 0.95 to 1.05 is an acceptable range to be considered a good estimate of market value.

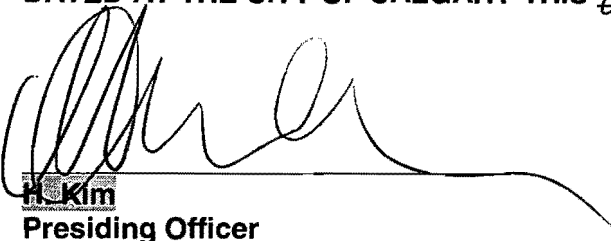
**Findings and Reasons:**

[14] The Board had decided not to vary the cap rate applied to B class buildings on the basis that the cap rates are only a means to an end, which is to determine a value that is a reasonable estimate of the market value of the property, as required under the legislation.

[15] The Board recognizes that it is within the realm of possibility that the typical net operating income is understated, and necessitates a lower than actual cap rate to be applied so that the amount of the assessment is a better approximation of market value. In the subject case, the property is a newer building of only three storeys, which sold for \$671/sf when typical B class buildings were selling for an average and median of \$363/sf and \$360/sf respectively. The rent roll showed that the actual rents achieved by the subject property were significantly higher than typical for a B class building.

[16] In view of the atypical nature of the subject property and its sale in the relevant time frame, the Board determined that its selling price is the best indicator of market value.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF August 2013.



H. Kim  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant's Rebuttal
4. R2	Respondent's Rebuttal CARB 72016P-2013
5. R3	Respondent's Rebuttal DL019/10
6. R4	Respondent's Rebuttal MGB123/10
7. R5	Respondent's Rebuttal CARB 70282P-2013
8. R6	Respondent's Rebuttal CARB 72586P-2013

*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.*

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Property Type	Property Sub-Type	Issue	Sub-Issues
(3) Office	Low Rise	Income Approach	Capitalization Rate Net Market Rent