



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

Parkdale Properties Limited

(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: 060078805

LOCATION ADDRESS: 2530 Kensington Rd NW

FILE NUMBER: 70591

ASSESSMENT: \$1,850,000

This complaint was heard on October 3, 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. Neal, City of Calgary Assessor*

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

- [1] There were no procedural or jurisdictional matters.

Property Description:

- [2] The subject property has been assessed as a 1954, "C" Class, 15,000 square foot (sf) low rise office building with 7,500 sf of office space above grade and 7500 sf below grade, in West Hillhurst, NW Calgary.

Issues:

- [3] Is the Income for this property assessed correctly? Specifically, the Complainant is asking for an increase in vacancy from 9% to 16%.

Complainant's Requested Value: \$1,490,000

Board's Decision:

- [4] The Board confirms the assessment at \$1,850,000.

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:

[5] W. Van Bruggen (MNP), argued that the vacancy rate for this property was too low. To support his argument he presented MNP's "C" Class Office Vacancy Study for the NW (C1p19), which showed an average vacancy rate of 22.72%.

[6] The Vacancy Study was developed using the City of Calgary study and removing condominiums, buildings with medical offices and buildings with a significant retail portion.

[7] The Complainant also presented documentation and emails to confirm that the subject building was significantly vacant in the last year (100% vacancy was used in the study). The correspondence did not state why the building was vacant. MNP suggested it was because the building was dated and no longer suitable for the purposes for which it was being used. He said significant renovation was currently in progress to make the building more functional. (C1p20, p45)

[8] The Complainant also provided assessment documentation to support the inclusion or exclusion of specific properties in the Vacancy study.

Respondent's Position:

[9] C. Neal, City of Calgary Assessor, presented the City of Calgary Northwest CS0302 Suburban Office ("B" and "C" Quality) list, which showed an average Vacancy rate of 9.15%. (R1p16) The typical rate assessed is 9.00%. The Respondent provided the Assessment Request for Information (ARFI) for the subject property, which indicated a past vacancy of 87.26%. She also included an email from the Vice President of Humford Management Inc., who is currently managing the property, which confirmed that the property is currently undergoing

renovation, and another which stated that for this year the building will be 100% Vacant. (R1p29, p33).

[10] The Respondent argued that the comparables used in the Complainant's Vacancy study were selected incorrectly. The "medical buildings" which were excluded were buildings with offices that could otherwise be used for other purposes, not specialty medical facilities. Specialty medical facilities are assessed separately from other offices. The City includes condominium offices on its list of offices, and assesses buildings with more office space than retail space as office buildings.

[11] The Respondent also included a recent sale of the subject property which was part of a sale with three other properties. Appropriate analysis of the separate value of the subject and relevant documentation to prove that value were not presented by either party.

Board's Reasons for Decision:

[12] The Board considered the arguments and evidence presented by both parties. The Complainant had excluded leases from its vacancy study which changed the average vacancy rate to a higher number. The Board determined that the excluded leases were largely representative of suburban offices and should not have been excluded.

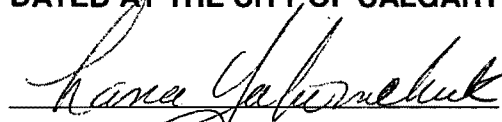
[13] The Board decided that the Sale evidence could not be used as it was part of a larger aggregate group of properties which sold together, and the individual details were not available or analyzed.

[14] The Board found no reason to consider the subject property atypical or requiring special consideration in terms of vacancy. The evidence showed that the property was under renovation, which is a management decision.

[15] The Board found the evidence provided by the Respondent to be more accurate and more compelling than the evidence provided by the Complainant.

[16] The Board confirms the 2013 Assessment.

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



Lana Yakimchuk

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. C2	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.*

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Office	Low Rise	Income Approach	Vacancy