



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:

Mission Centre LTD.(as represented by MNP LLP.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***T. Golden Board Chair, PRESIDING OFFICER
A Huskinson, BOARD MEMBER
T Usselman, 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: 080115900

LOCATION ADDRESS: 2303 4 ST SW

FILE NUMBER: 70678

ASSESSMENT: \$27,530,000

This complaint was heard on 16 day of July, 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:

- *G. Worsley*
- *J. Langelaar*

Appeared on behalf of the Respondent:

- *R. Urban*

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

- [1] There were no preliminary matters.

Property Description:

- [2] The Subject property is a 76,284 square feet (sq ft) office building with retail on the street level. Built in 1973 the property is a B class building. The assessment was prepared using the income approach. The retail area is not in dispute.

Issues:

- [3] **Issue 1** Is the capitalization (cap) rate of 5.25% the appropriate rate to be applied to the assessment?
- [4] **Issue 2** Is the 8% vacancy rate applied to the property the correct rate?
- [5] **Issue 3** Should the cost to repair the parkade be deducted from the assessment?
- [6] **Complainant's Requested Value:** \$22,200,000

Board's Decision:

- [7] The board has confirmed the assessment at \$27,530,000

Board's Reasons for Decision:

Board's Decision on Issue 1

- [8] **Issue 1** The cap rate of 5.25% is confirmed as the rate to be used in the assessment.

Position of the Parties

Complainant's Position:

- [9] In terms of the cap rate the Complainant expressed three problems with the analysis provided by the Respondent. Firstly; the Complainant was of the opinion that the Respondent calculated the cap rate in an inconsistent manner. The Complainant presented decision CARB 70518/P-2013 as a support for the cap rate analysis. The decision describes the same argument put before the Board in paragraph 13 of the decision and follows:
- [10] *"The City uses parameters derived for the valuation date July 2011 when it develops the net operating income (NOI) to produce the cap rates for sales occurring between July 1 2011 and December 31 2011. The data on which the July 1, 2011 valuations were made dates back to June 30 2010 and perhaps even further back. The correct approach is to use the value of all factors set for the July, 2012 valuation date. These parameters should then be used to develop the cap rates for all sales and also to arrive at the 2013 assessments. This means that the values used to develop the NOI used to produce the July 1, 2012 cap rate should be the identical values when applying that cap rate for the assessments of July 1 2012".*
- [11] Calculating the sales in this fashion would yield a cap rate of 6.25%
- [12] Secondly; the Complainant was of the opinion that the sales of 605 11 AV SW and 809 10 AV SW were not valid sales and should not be included in the cap rate analysis. It was argued that 605 11 AV SW was not exposed to the market as indicated in a correspondence with a former owner. In the case of 809 10 AV SW this property was part of a portfolio sale and shouldn't be considered. Based on the three remaining sales in the Complainant's disclosure the cap rate would be 6.04% as shown on page 30 of exhibit C-1.
- [13] Lastly; the Respondent did not include 2 sales that should have been part of the cap rate analysis. Properties at 1451 14 ST SW and 525 11 AV SW were valid and timely sales and were in fact shown to be included in the original analysis and only excluded later. Using the proposed method of calculation of the cap rate calculation and including the two additional sales this analysis produces the median cap rate of 6.04% as shown on page 34 of Exhibit C-1

Respondent's Position:

- [14] The Respondent explained the method the assessment department uses to develop a cap rate which is to use the NOI for the year closest to the sale. Sales that occur from July 1, 2011 and December 31, 2011 are analysed using parameters developed for July 1, 2011. July 1, 2012 parameters would be applied to any sale after January, 2012.
- [15] The two sales that were suggested by the Complainant to be excluded were supported by the Respondent. The sale at 605 11 AV SW was a valid sale as indicated on the Real Net report. As well 809 10 AV SW involves the sale of other properties which had separate documentation and an appraisal. Both sales were considered to be valid.
- [16] The two sales that were excluded by the Respondent were firstly included in the City list for consideration but later excluded and the initial documents provide to the Complainant

clearly indicated changes in the data may occur at anytime. The properties were purchased to be renovated and not for the ability to generate income on rental activity. This is shown on the Sale Questionnaire sent by the City to gather sale information. Since the purpose was not to receive rental revenue the sale was not included as NOI was not considered in the sale.

Board's Decision:

- [17] The Board agreed in principal with the Complainants method of calculating the cap rate as indeed it is a more consistent approach to the calculation as it reflects the typical parameters of the same time period as the assessment year. However the Board is not in agreement with the sales used by the Complainant in developing the cap rate weakening the calculation of the cap rate and the assessment request. The Board agrees with the Respondent that since the properties at 1451 14 ST SW and 525 11 AV SW were purchased for reasons other than rental income this could distort the cap rate since future sale income after renovation is the purchasers key interest rather than rental income. These sales are less appropriate to be used in the cap rate analysis. The Board in reviewing the sales used by the Respondent notes there are only 5 sales available and is therefore aware that eliminating sales on such a narrow sample can be problematic. Therefore in reviewing the two questionable sales at 605 11 AV SW and 809 10 AV SW, the Board accepts the position of the Respondent. The property at 605 11 AV SW was felt to be a valid sale as the Real Net report indicates that the sale was brokered by CBRE and the report made no comment regarding the lack of market exposure. The Complainant was unable to influence the Board with the reported information of "a former owner's" comments.
- [18] The second sale at 809 10 AV SW was reported to be part of a portfolio sale however the sales all occurred within the City of Calgary and were accompanied by separate documentation. The board accepted the Respondents argument to include the sale in the cap rate study.
- [19] Even though the Complainant was convincing in the method of calculation issue other factors weaken the Complainants request. The Respondent was able to provide a stronger set of sales to support the cap rate analysis. The Complainant's cap rate study suffered from having only three sales and was determined to be less effective in presenting an acceptable market based cap rate. The Board notes that the calculation of a cap rate using the three sales does not achieve the requested rate of 6.25% rather it yields 6.04%. The requested cap rate is not supported. The Complainant's income calculation on page 39 of Exhibit C-1 is questioned as it is calculated using requested parameters and not typical values. The weakness of the Complainants total cap rate argument and valuation calculation renders it not as strong as the Respondents information. Based on the Complainant's evidence the Board was unwilling to vary the cap rate and the 5.25% rate is confirmed.

Board's Decision on Issue 2

- [20] **Issue 2** The 8% vacancy rate applied to the income approach for property is the correct rate

Position of the Parties**Complainant's Position:**

- [21] The Complainant noted that the City conducted its office vacancy study using all building qualities from A to D classes. This is an error as different classes of buildings compete for different parts of the market and attract different renters at different rent rates. A "Belt Line "B" Class Vacancy Study" prepared by the Complainant was provided to the Board supporting the 11% vacancy request.

Respondent's Position:

- [22] The Respondent explained that studies based on ARFI reports showed that there was little difference in the vacancy rates of offices in the Beltline and supported their results with 3rd party reports that also show aggregate vacancy to be similar to the Respondent's vacancy rate. The Complainant's list of comparables indicated a number of cases where the Respondent had the improper area data. This was because the Respondent's information was from the ARFI forms and it would vary from the total building area found in other records.

Board's Decision:

- [23] The Board reviewed the vacancy information provided in the Complainant's submission and addressed the question regarding should the building classes be segregated? The Board accepted the Respondent's position as it appears the result of the analysis is reasonable. Generally the more similar the comparables are the better the results. In this case the Complainant did not provide strong enough evidence to show that the segregation of the B class buildings gave a better result. There was no market evidence to support the opinion that the classes compete differently. The Board notes that the Respondent's approach is supported by other industry information and appears to be a stronger indication of vacancy in the Beltline. The Board is not persuaded to vary the vacancy rate.

Board's Decision on Issue 3

- [24] **Issue 3** The cost to repair the parkade should not be deducted from the assessment.

Position of the Parties**Complainant's Position:**

- [25] An April 2013 report pointed to the structural issues of concrete and delaminating and the cost of repairs would be between 475,000 and 500,000. The Complainant requested the Board to deduct this amount from the assessment to recognize the structural

problem as a purchaser would deduct this from the sale price.

Respondent's Position:

- [26] The Respondent had little information on this situation and the actual costs were not known.

Board's Reasons for Decision:

- [27] The structural issue may be a concern as stated by the Complainant but the Board had little evidence to support the request. It appears the repair to the structure is yet to be detailed in any manor except to say repairs will be required at some point. The Board was reluctant to vary the assessment with so little detail.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF August 2013.



Tom Golden

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. C3	Complainant Rebuttal
4. C4	Complainant Rebuttal
5. C5	Complainant Rebuttal
2. 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.*

Roll	Address	Subject	Issue	Detail	Sub Detail
080115900	2303 4 ST SW	office	income	Rent, vacancy, cost to cure	