



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:

Sunstone (Golden Acres) Holdings INC. (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***P. Petry, PRESIDING OFFICER
H. Ang, BOARD MEMBER
R. Deschaine, 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: 023153349

LOCATION ADDRESS: 5220 4th Street N.E.

FILE NUMBER: 70764

ASSESSMENT: \$4,850,000

This complaint was heard on the 23rd day of September, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *J. Langelaar*

Appeared on behalf of the Respondent:

- *G. Good*

Property Description:

- [1] The subject is classed as a retail strip centre constructed in 1981. It consists of 21,781 square feet (sq. ft.) of rentable area with varying commercial retail unit (CRU) sizes. The subject property has been assessed using the capitalized income approach. The primary dispute centres on the lease rates applied in reaching the assessment.

Issue:

- [2] What are the most appropriate rental rates for the application of the capitalized income approach to value for the subject property?
- [3] The Complainant originally had made submissions respecting the vacancy allowance used in the assessment of the subject property, however, this matter was dropped at the hearing on September 23, 2013.
- [4] Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB). The only issues, however, that the parties sought to have the Composite Assessment Review Board (CARB) address in this hearing is the issue referred to above, therefore the CARB has not addressed any of the other matters or issues initially raised in the Complaint.

Complainant's Requested Value:

- [5] The Complainant's request is that the assessment be reduced to \$4,130,000.

Board's Decision:

- [6] The CARB has determined that the rental rates used to develop the current assessment should not be changed and therefore confirms the assessment of \$4,850,000.

Legislative Authority, Requirements and Considerations:

- [7] The Composite Assessment Review Board (CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:
- [8] *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).*
- [9] For purposes of the 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*
- [10] The Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA section 293(1)(b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 2:
- [11] *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*

Summary of the Party's Positions**Complainant**

- [12] The assessment breaks out applicable rental rates based on size brackets for CRU space. There are no recent leases within the subject for the size bracket of 0 to 1,000 sq. ft. and therefore the Complainant did not recommend any change to the current assessed rate of \$21 for that CRU size range.
- [13] For the next CRU size bracket of 1,001 sq. ft. to 2,500 sq. ft. the Complainant brought forward two lease rates within the subject property. One lease dated July 15, 2011 at a rate of \$16 per square foot (sq. ft.) and a second lease at a rate of \$14 per sq. ft. dated September 1, 2012. The Complainant recommended that the rate for this CRU size range be set at the midpoint between these two lease rates at \$15 per sq. ft.
- [14] There are currently no tenants occupying the space in the next CRU size range from 2,501 to 6,000 sq. ft. The Complainant argued that the appropriate rate for this range would not exceed the rate for the next smaller size and suggested that a rate of \$15 per sq. ft. should be applied to this space as well.
- [15] The resulting value after applying all of the above recommendations is \$4,130,000.
- [16] The Complainant argued that the sale of the subject in 2009 and the current listing are not appropriate indicators of the subject's current market value.

Respondent

- [17] The Respondent introduced the documentation showing that the subject property sold July 2nd, 2009 along with a second property for the sum total of \$10,475,000 or \$183 per sq. ft. The same two buildings are currently listed for sale at \$14,000,000 or \$243 per sq. ft. while the current assessment for the two properties is only \$12,720,000.
- [18] The Respondent argued that the rental rates are correct and that the assessment is fair and equitable.

Findings and Reasons for the Board's Decision:

- [19] The CARB has carefully reviewed the Complainant's evidence with respect to rental rates applicable to the subject property. The Respondent did not bring forward evidence in support of the lease rates as applied in developing the assessment. The onus nevertheless rests with the Complainant to introduce evidence which is sufficient and compelling. The CARB finds that the evidence relied upon by the Complainant is very limited and not persuasive.
- [20] Only two leases within the subject are used to support a change in rental rates that would have a significant impact on the assessed value of the subject property. The CARB finds that this is simply too little to be a compelling case for change.
- [21] The CARB notes that the subject has older leases in the range of \$19 and \$20 per sq. ft. The Complainant did not introduce any evidence which would persuade the CARB that the subject is not capable of achieving rates comparable to those used in reaching the assessment for the subject property.
- [22] The CARB therefore confirms the assessment for the subject property at \$4,850,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF October 2013.



Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
Commercial	Strip Centre	Retail	Rental Rate	