



**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: 023153356**

**LOCATION ADDRESS: 5010 4<sup>th</sup> Street N.E.**

**FILE NUMBER: 70766**

**ASSESSMENT: \$7,870,000**

This complaint was heard on the 23<sup>rd</sup> 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 an A- retail strip centre constructed in 1981. It consists of 35,767 square feet (sq. ft.) of rentable area with varying commercial retail unit (CRU) sizes and office space. 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] Is the subject property more like those properties classed as B+ rather than those properties classed as A-?

[3] What are the most appropriate rental rates for application of the capitalized income approach to value the subject property?

[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 are those 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 \$7,310,000.

**Board's Decision:**

[6] The CARB has determined that the assessment for the subject property should be reduced to a value of \$7,310,000.

**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):

[10] *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*

[11] 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:

[12] *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**

[13] The assessment breaks out applicable rental rates based on size brackets for CRU space. Complainant has provided rental rates within the subject and some market data as well for certain CRU size brackets. No information was presented for the size bracket of 0 to 1,000 sq. ft. However the Complainant recommended that the assessed rate for this size bracket be reduced to \$22 per square foot (sq. ft.) from the current assessed rate of \$27 per sq. ft. This requested rate is based on the rates applied for the B+ class of properties.

[14] For the next CRU size bracket of 1,001 sq. ft. to 2,500 sq. ft. the Complainant provided two lease rates for the subject, which showed a median rate of \$21.50. The Complainant compared this value to the median value of \$24.75 per sq. ft arising from several lease rates for other properties classed as A-. The Complainant argued that the \$21.50 median rate within the subject is closer to the rate of \$21 per sq. ft. used by the Respondent for the B+ class of properties than to the rate of \$25 per sq. ft applied by the Respondent to the subject property and other properties classed as A-. The rate of \$21 per sq. ft. was recommended by the Complainant for the 1,001 to 2,500 sq. ft. CRU size range.

[15] The Complainant also made a direct comparison of two lease rates within the subject to two lease rates within a property at 5220 4<sup>th</sup> Street N.E. These rates were very close to the same. This comparable is a sister property purchased together with the subject and operated by the same owner in a similar manner as is the case for the subject. Both the subject and the

property at 5220 4<sup>th</sup> Street N.E. were constructed in 1981 and offer equivalent CRU space. They are across the Street from each other and compete directly in the same market place. The 5220 – 4<sup>th</sup> Street N.E. property is classed in the B+ category and is assessed with lower rental rates applicable to the B+ class of property.

[16] The Complainant argued that the subject property is inequitably classed as an A- property and the same rental rates applied to the sister property at 5220 4<sup>th</sup> Street N.E. should be applied to the subject.

[17] The resulting value after applying all of the rental rates applicable to the B+ class of properties results in a requested value of \$7,310,000.

### **Respondent**

[18] The Respondent introduced the rent roll for the subject property and pointed out that the subject property is achieving income similar to the income projected in the assessment and argued that the subject is capable of achieving the income used in arriving at the assessment.

[19] The Respondent submitted lease data for CRU space less than 1,000 sq. ft. and also for the 1,001 to 2,500 CRU size bracket, in support of the A- rental rates applied in reaching the subject property's assessment.

[20] 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:**

[21] The CARB has carefully reviewed both parties' evidence with respect to rental rates applicable to the subject and similar properties. The Respondent's evidence fails to support the lease rates used in the assessment. However the CARB also finds that the evidence brought forward by the Complainant is also very limited with respect to the extent of rental data it relied upon.

[22] The more compelling argument and evidence before the CARB was that relating to equity with the property at 5220 4<sup>th</sup> Street N.E. This property is just across the Street; it is very similar, is managed by the same operator, is the same age and competes in the same market place. This comparable property is classed and assigned rental rates associated with the B+ class of properties. The CARB therefore has concluded that the subject should be treated in a similar manner for assessment purposes.

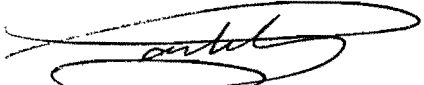

[23] The Respondent's evidence respecting the fact that the subject's actual income is very close to the income the Respondent has applied in its valuation is somewhat compelling, however, this does not override the more compelling argument concerning equity.

[24] The equity argument coupled with rental data, even though limited, suggests that the subject's recent rental levels are below the A- class. These facts have persuaded the CARB to adopt rental rates equivalent to those assigned to the B+ class of properties.

[25] The CARB therefore reduces the assessment for the subject property to \$7,310,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 17<sup>th</sup> DAY OF October 2013.

  
  
Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
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	Class	Rental Rate