



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:

The Ranchmen's Club (as represented by AEC Property Tax Solutions) COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair; J. Zezulka
Board Member; D. Morice
Board Member; J. Kerrison***

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: 067236703

LOCATION ADDRESS: 710 - 13 Avenue SW

FILE NUMBER: 70957

ASSESSMENT: \$5,900,000

This complaint was heard on 4 day of September, 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:

- *S. Rickard*
- *G. Ludwig*
- *D. Houghton*

Appeared on behalf of the Respondent:

- *C. Fox*
- *S. Trylinski*

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

(1) Prior to the hearing, it was discovered that a calculation error existed in the assessed floor area. The building was originally assessed as having 35,732 s.f. of space classified by the City as office space, and 11, 668 s.f. of basement storage. The area was amended by the City to include 32,382 s.f. of office, and 11,668 s.f. of storage . The amendment was agreed to by the Complainant.

(2) As a result of the amendment the City recommended a revised assessment of \$5,390,000.

(3) At the outset, the Complainant objected to the disclosure of certain capitalization rate evidence being brought forward by the Respondent. The Board did not preclude the evidence, but decided to consider the evidence appropriately.

Property Description:

(4) The property consists of the Ranchmen's Club, which is a three storey clubhouse originally constructed in 1912 as a gathering place and overnight accommodation for area ranchers and people connected with the livestock industry. The building was extensively renovated during the 1980's, and still operates as a private club and dining facility. The building is currently on the "Buildings of Interest" list of the Calgary Historical Preservation society.

(5) The fact that the subject has historical interest complicates any renovation or reconstruction process significantly. For example, Mr. Houghton, the Ranchmens Cub manager, testified to the fact that the 1980's reconstruction required that the existing building be dismantled "brick by brick". Each brick was then catalogued to be used in the reconstruction in the exact manner as the original building. Without delving into specifics, this Board is cognizant of the enormous cost that such a procedure would add to any renovation project.

(6) There are 66 underground parking stalls, which are accessed by way of a lease over adjacent property.

(7) Because of its design, the subject does not offer the same contemporary accommodation typically found in modern office buildings. The subject has wide hallways, large "sweeping" staircases, and large meeting rooms, as well as the dining room. The Complainant pointed out that about 36 per cent of the building is dedicated to non-rental activity.

(8) Redevelopment on the site is limited to three storeys because of a transfer of air rights that occurred during the 1980's, when a residential condominium was developed adjacent to the subject building.

(9) The subject is currently zoned DC-Direct Control, with RM-7 guidelines which, according to the evidence presented, limits the use of the subject to that of a private club. Any future development is limited to residential use.

(10) Post tension construction, using unbonded cables, was used in some of the 1981 reconstruction. This technique of construction is out-dated by current standards.

Issues / Appeal Objectives

(11) The subject is currently being assessed using the income approach. For purposes of assessment, the City classifies the building as a class "B" office building. The current assessment calculates to \$182.19 per s.f. of building, including the basement. The Complainant does not dispute the valuation method. However, the Complainant disputes the building's classification, and subsequently the rents being applied, and the capitalization rate.

Complainant's Requested Value:

(12) \$3,900,000

Board's Decision:

(13) The assessment is reduced to \$4,590,000

Legislative Authority, Requirements and Considerations:

(14) This Board derives its authority from section 460.1(2) of the Municipal Government Act, being Chapter M-26 of the revised statutes of Alberta.

(15) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAC), states as follows;

"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"

(16) Section 467(3) of the Municipal Government Act states;

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(c) the assessments of similar property or businesses in the same municipality."

(17) For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.

Position/Evidence of the Parties

(18) In dealing with the specific issues relating with the current assessment, the Complainant presented the Board with eleven different scenarios that provided an assessment range from \$3,900,000 to \$5,700,000.

(19) The scenarios ranged from maintaining the 2012 assessment at \$3,900,000, to a reference to a Municipal Government Board (MGB) Order No. 064/09, subjected to some mathematical gymnastics, to produce an indicated value of \$5,700,000.

(20) One of the scenarios presented suggests that the subject should be valued similarly to a hotel, adopting the Net Annual Rental Value (NARV) that is being applied to hotels.

(21) The Complainant argues that the capitalization rate that should be applied, in the event that the Board agrees with the Respondent as to the valuation method, should be 9.25 per cent, which is a blend of a 6.25 per cent "typical" rate, plus an arbitrary allowance of 3.0 per cent "bonus" that will be discussed later in this decision.

(22) In the rebuttal document, the Complainant produced a series of 12 CARB decisions that fixed the cap rate for class "B" buildings at 6.00 per cent. Although past decisions are sometimes of interest to this Board, it is noted that this Board is not privy to all of the evidence and testimony that led to a particular decision. Also, the fact that there are 12 decisions that came to the same conclusion might be of some significance. However, this Board notes that all 12 decisions were arrived at by the same panel, during a single week of hearings, involving the same agents and assessor. This Board did not place much weight on the decisions tendered.

(23) The Respondent values the building as a class "B" office building, using typical rates applicable to buildings in that category located in the Beltline. The Respondent uses a typical rent of \$15.00 per s.f., applied to the overall office area of 32,382 s.f., plus the 11,668 s.f. of basement space at \$5.00 per s.f. to arrive at a potential gross income. From that total, the Respondent deducts all of the typical vacancy and operating costs to arrive at a net operating income of \$445,053.08.

(24) The capitalization rate applied by the Respondent is 8.25 per cent. That rate is derived from the contemporary typical rate being applied to class "B" office buildings of 5.25 per cent, plus the arbitrary allowance of 3.0 per cent because of the subject's unique nature.

(25) Both parties to the complaint agree that a three per cent increase in capitalization rate is appropriate for the subject. The three per cent rate is based entirely (it seems) on MGB order 064/09, dated June 17, 2009.

(26) The MGB order states, in part;

"Both parties appear to embrace a cap rate of 9.25 % as appropriate for this property, however, they do not agree on which negative features this rate would address. While the parties did not bring forward specific cap rate analysis to support the 9.25 per cent rate, the MGB nevertheless adopts this rate as the appropriate adjusting factor for the restrictions discussed....."

"The capitalization rate is meant to reflect the quality and security of the income stream as well as the age, condition, and location of a property and is thus an appropriate place to make an adjustment to the atypical physical layout of the building on the subject property as well as the restrictions on its development.....the MGB finds that this 9.25 per cent cap rate reasonably reflects the limitations of the subject property, representing a three point

difference from the 6.25 per cent cap rate applied to neighboring properties in the beltline".

(27) Insofar as the building's classification is concerned, the Respondent presented the assessment of the Freemasons Hall at 330- 12 Avenue SW as a comparable. This building is assessed as a class "C" office, and the Respondent argues that the comparable is inferior to the subject, because no renovations have been done to this 85 year old building. (The assessment on this building calculates to \$184.12 per s.f)

(28) The Complainant, on the other hand, maintains that the subject's assessment should ,at the least, be based on the same parameters as the Freemasons Building, but with the higher cap rate.

(29) In the assessment of the Freemasons Building, the Respondent used an office rent of \$14.00 per s.f,a storage rate of \$3.00, and a cap rate of 5.75 per cent, which are the typical rates applied to class "C" office buildings.

(30) To support the rental rates used in the assessment, the Respondent submitted the 2013 Beltline Office Rental Analysis for both class "B" and class "C" buildings. For the total 2011 and 2012 period covered, the difference between the two is not significant, although the difference is greater for the last three months prior to the valuation date.

(31) The results of the rental analysis is as follows;

	2011 and 2012		Last three Months	
	Class "B"	Class "C"	Class "B"	Class "C"
Median	\$14.00	\$14.06	\$15.00	\$15.21
Mean	\$14.74	\$14.57	\$15.60	\$14.25
Weighted Average	\$14.45	\$14.40	\$15.19	\$14.94

(32) The Respondent submitted five property transactions, together with supporting documentation, in support of the 5.25 per cent capitalization rate conclusion for class "B" buildings.

(33) The five comparables produced a capitalization rate range from 3.63 to 6.53 per cent. The rates were derived by using the assessed net operating incomes from the sale years. The median and average rates indicated were 5.25 and 5.18 per cent. Neither the inputs nor the methodology employed was questioned by the Complainant.

Board's Reasons for Decision:

(34) The subject building is not a class "B" office building. In fact, the subject is not an office building at all. As mentioned previously, about 64 per cent of the subject is actually rentable space, compared to 85 per cent efficiency for typical office buildings, according to the Business Owners and Manager's association (BOMA).

(35) Having said that, this Board is left with the evidence set before it. The Complainant's eleven scenarios might be interesting, but are based on little more than supposition and opinion. As a result, none are very helpful in assisting the Board in arriving at a decision.

(36) It has already been stated that this Board is of the opinion that the subject is simply not an office building. However, the Board is equally of the opinion that the subject is not a hotel, and the hotel valuation parameters do not apply either. But those are the only options presented to the Board in evidence.

(37) Faced with the requirement to make a choice, this Board concludes that the subject has

more in common with class "C" office buildings than with any other category of building available in the evidence. As such, the rental rate for the main and upper floors, similar to office space, should be \$14.00 per s.f. , and the storage should be \$3.00 per s.f. The 5.75 per cent cap rate for class "C" is also the most appropriate.

38) As far as the three per cent variation in cap rate is concerned, this Board is faced with the same absence of evidence that the MGB had to contend with in 2009. However, both parties agreed then, and both parties agree now, that three per cent is appropriate to reflect the unique, but detrimental, attributes of the subject. This Board will follow suit.

(39) The revised assessment calculations produce a result of \$4,595,542, truncated to \$4,590,000.

DATED AT THE CITY OF CALGARY THIS 10th DAY OF October 2013.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
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| 1. | C1 Complainant Disclosure |
| 2. | C2 Complainant Rebuttal |
| 3. | C3 Complainant Rebuttal Supplement |
| 4. | C4 Complainant Rebuttal Supplement No. 2 |
| 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 MGB Administrative Use Only

Decision No. CARB 70957P/2013			Roll No. 067236703	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Office or club	Market Value	Income Approach	Cap rate and Rental Rate