



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

Safeway Holdings (Alberta) Ltd.
(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: 045095809
LOCATION ADDRESS: 2411 4 St NW
FILE NUMBER: 70980
ASSESSMENT: \$9,150,000

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] The Respondent asked that parts of the Rebuttal which did not address the Response by the City be removed. The Complainant argued that all parts of the Rebuttal addressed elements in the Response.
- [2] The Board decided that any parts of the Rebuttal which it agreed did not address the Response would be removed or given no weight as the hearing proceeded.
- [3] Both parties asked the Board to carry forward all information from CARB 70549 to this decision. Parts of CARB 70549 and 70980 will be similar for this reason.

Property Description:

- [4] The subject property has been assessed as a 1966, 41,564 square foot (sf) lowrise suburban office and retail building, with a 1988 gas station (Automotive Convenience Store) which has been assessed separately. It is located in Mount Pleasant, in the NW quadrant of Calgary.

Issues:

- [5] Is the Income for this property assessed correctly? Specifically, the Complainant is asking for a decrease in office rent rate from \$15.00/sf to \$13.00/sf and an increase in vacancy rate from 9.00% to 12.75% or an increase in Cap rate from 6.75% to 7.5%.

Complainant's Requested Value: \$7,520,000 or \$8,240,000

Board's Decision:

- [6] The Board confirms the assessment at \$9,150,000.

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:**

[7] W. Van Bruggen (MNP) argued that the subject assessment is too high and can be reduced in one of two ways: by reducing the rent rates from \$15.00/sf to \$13.00/sf and increasing the vacancy rates from 9.00% to 12.75% or by increasing the Cap rate from 6.75% to 7.5%.

[8] To support an increase in rent rates, the Complainant presented MNP's "B" Class Lease Analysis (NW). (C1p18). The study consisted of 31 leases of various sizes and terms ranging from 3 to 10 years. The median rent rate was \$14.00/sf and the weighted mean was \$12.40/sf.

[9] The Complainant explained that MNP had created the study by removing any leases from the City study that were related to step-ups and lease extensions and by including missed leases.

[10] W. Van Bruggen presented MNP's "B" Class Office Vacancy Study (NW) which showed

a 12.79% average vacancy rate for the offices included in the study. (C1p20)

[11] The Complainant also provided a capitalization rate study using the income parameters for July 1, 2013 for all the sales since July 1, 2012. The resulting derived Cap rate was 7.59%. The Complainant asked for a 7.50% Cap rate for the subject. (C1p31)

[12] The disclosure package included information and documentation to support the inclusion and exclusion of all lease, vacancy and sale data, as well as photographs of the comparable properties.

Respondent's Position:

[13] C. Neal, City of Calgary Assessor, presented the 2013 Suburban Office Rental Analysis: "B" Quality NW. It consisted of 42 NW and nearby NE leases of various sizes. The median of the leases was \$16.00/sf and the weighted mean was \$14.78/sf. (R1p45)

[14] The Respondent also presented the 2013 Suburban Office Vacancy Summary (R1p65,66), which showed an average 9.15% vacancy. Typical Vacancy for "B" offices has been assessed at 9.00%.

[15] The Respondent provided reasons for including and excluding specific properties from the Cap rate study (R1p79,80). 3402 8 St SE was included because it appears to be a Market Value sale and the Complainant used it in a previous study, although the Complainant contends there were no brokers involved. 222 58 Ave SW was excluded by the Respondent because it was not purchased to be used in the manner in which it had been used prior to the sale. 480 36 Ave SE was not included because it occurred after the valuation date, and the building is being renovated extensively, at an estimated value of \$3,400,000.

[16] The Respondent pointed out that the Complainant had removed \$577,500 for land value from the total value of 222 58 Ave SW, thereby changing the Cap rate and that one of the sales added by the Complainant was sold after the valuation date. The 3402 8 St sale, which was excluded from the Complainant's study, had a Cap rate of 5.30% when calculated by the MNP and the City method. That property sold on May 1, 2012.

[17] The Respondent explained that the City of Calgary calculates Cap rate based on the typical income of the year in which the sale occurred. That is, it is calculated based on the closest evaluation date available. The Cap for 2011 is based on 2011 parameters and the Cap for 2012 is based on 2012 parameters. (R1p78,79))

[18] The City of Calgary provided appropriate documentation to support sales used in the creation of the Cap rate study. (Appendix C: R1p95)

[19] Upon questioning, the Respondent stated that generally the weighted mean is the best estimate of value for rent rates, but the median can be used if the leases are similar in area.

Board's Reasons for Decision:

[20] The Board considered the arguments and evidence presented by both parties. The Complainant removed several other leases from the MNP rent rate study. The Board reviewed the leases and found that the City of Calgary study proved to be more comprehensive and accurate. The weighted mean of office leases was \$14.78/sf.

[21] The Board decided that the weighted mean rent of \$14.78/sf was the best estimate of lease value and confirms the rent rate at \$15.00/sf.

[22] The Board considered the Vacancy Rate argument by both Parties. The Respondent had a more comprehensive study which achieved a higher accuracy, and the Board confirms the Vacancy Rate of 9.00%

[23] The Board considered the Cap rate analysis by both parties and found that the Complainant had removed and corrected 2012 sales that would have supported the City of Calgary's Cap rate. As the Cap rate is calculated on the Income Approach, which should reflect the value of the entire property, the Board was not convinced that removing the value of excess land from the sale of 222 58 Ave SW created an accurate calculation.

[24] The Board considered the arguments concerning calculation of Cap rates and the direction given by Board Order MGB 045/09 (p16 of 29): *"Although the MGB is satisfied that the Appellant's favoured approach is reasonable, the evidence does not show that it is better than the Respondent's. In this regard, the MGB notes that the Respondent's method did result in assessments that met Provincial audit, and therefore must have generated acceptable ASRs on an overall basis for property classes where sales occurred."*

[25] The Cap rate approach by the City of Calgary is reasonable and consistent and has met the audit standards. It uses typical factors for each year to analyze typical sales for that year.

[26] The Board finds the Cap rate to be fair and equitable.

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. C2	Complainant Rebuttal
3. 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.*

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