



## **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:**

***Tomanik Enterprises Ltd. (as represented by AEC Property Tax Solutions)***  
**COMPLAINANT**

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Board Chair; J. Zezulka***  
***Board Member; J. Rankin***  
***Board Member; H. Ang***

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: 067090100**

**LOCATION ADDRESS: 1006 - 11 Avenue SW**

**FILE NUMBER: 71029**

**ASSESSMENT: \$4,350,000**

This complaint was heard on 5 day of September, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *N. Laird*

Appeared on behalf of the Respondent:

- *C. Fox*

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

- (1) There were no procedural or jurisdictional matters raised by either party.

**Property Description:**

- (2) The building consists of 6,000 s.f. of office space, and 5,999 s.f. of restaurant space, with a 5,442 s.f. basement, located in the BL4 zone of the Beltline area in southwest Calgary. The building was built in 1900. For purposes of assessment, the City classifies the subject as a class "C" office building. The building is occupied by Twisted Element, a risqué night club, on the main floor, and Lux Communion, a marketing company, on the second floor.

**Issues / Appeal Objectives**

- (3) The subject is currently assessed using the income approach. The current assessment calculates to \$249.41 per s.f. of building, including the basement. The Complainant does not dispute the valuation method. The single issue before Board is the assessed office rent for the second floor. The City has used the typical class "C" office rent of \$14.00 per s.f. The Complainant argues that the subject building has inherent deficiencies that make it less desirable than typical class "C" office space, and therefore a lower rent is more appropriate. The Complainant is requesting a rent of \$10.00 per s.f.

**Complainant's Requested Value:**

- (5) \$3,970,000

**Board's Decision:**

- (6) The assessment is reduced to \$3,970,000

**Legislative Authority, Requirements and Considerations:**

(7) 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.

(8) 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."*

(9) 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."*

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

### **Position/Evidence of the Parties**

(11) The Complainant pointed out that the subject is an old building, originally built in 1900, or thereabouts. The structure has no lobby, with few windows, and no windows on the east and west elevations, no elevator, and no on-site parking. Second floor access is limited to a single staircase off the rear lane.

(12) The Complainant further argues that the nature of the main floor tenant's business has an adverse affect on the character of the building, thereby rendering it undesirable for rental to the majority of potential tenants.

(13) According to the Complainant, the second floor lease is for a period of four years, at a stated rent of \$11.00 per s.f. However, the lease contains a floor area inducement that reduces the effective rent to \$9.85 per s.f.

(14) The Complainant also submitted the City's current income approach valuation calculations for the J and P Building, at 1001 - 10 Avenue SW. that showed the rent for "office retail in warehouse" space and "office warehouse" space at \$12.00 per s.f. The J and P building was built in 1953. The cap rate used in that analysis was 6.00 per cent. This building is across the alley from the subject on 10 Avenue.

(15) Another comparable used by the Complainant was the Progress Printing Building at 1003 - 11 Avenue SW. The rents applied for the income calculations were \$14.00 per s.f. for the office space, and \$17.00 per s.f. for the retail space. This building was built in 1962. Because of its age and more conventional tenancies, the Complainant contends that the building is superior to the subject, and should have a higher rent applied.

(16) The Respondent contends that the subject is a typical class "C" office, and should therefore have the typical inputs used in the mass appraisal model applied, including rents, operating costs, and capitalization rate.

(17) The Respondent submitted an Assessment Request for Information (ARFI) form for the subject that showed the main floor rent for the night club to be in line with the assessed rent. However, the rent shown for the second floor space was \$2.66 per s.f. No one in the hearing

could satisfactorily explain the source of the figure, or how it was derived.

(18) The Respondent produced two equity comparables showing that the inputs used in the capitalization calculations were standard for "C" class buildings, and were the same as the inputs used for the subject. Photographs of both comparables revealed that both have street access, as opposed to rear lane access, and both have better fenestration than the subject.

(19) The Respondent submitted the 2013 Beltline Office Rental Analysis for class "C" buildings. The analysis showed a mean and median office rent of \$14.57 and \$14.06 per s.f.

**Board's Reasons for Decision:**

(20) Although the nature of the main floor tenant might detract from the subject's rentability in the eyes of certain prospective tenants, the Board does not accept that as a factor that can affect the assessment. The nature of any building tenancies is an ownership decision, and not something inherent in the property itself.

(21) Having regard to the physical nature of the second floor office space, this Board does not agree that the space is typical class "C" office space, but rather is something inferior. The lack of windows, lack of parking, and lack of front street access, are detriments that are not easily remedied. As such, these aspects need to be considered in estimating a typical rent.

(22) The Board is satisfied that the \$10.00 per s.f. rate put forward by the Complainant most fairly represents the rent achievable for the subject second floor office space.

(23) The revised assessment calculations produce a result of \$3,978,435, truncated to \$3,970,000.

DATED AT THE CITY OF CALGARY THIS 4<sup>th</sup> DAY OF October 2013.

  
Jerry Zezulka

Presiding Officer

**APPENDIX "A"**

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

<b>NO.</b>	<b>ITEM</b>
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- |    |                                    |
|----|------------------------------------|
| 1. | C1 Complainant Disclosure          |
| 2. | C2 Complainant Rebuttal            |
| 3. | C3 Complainant Rebuttal Supplement |
| 4. | 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**

<i>Decision No. CARB 71029P/2013</i>			<i>Roll No. 067090100</i>	
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Office	Market Value	Income Approach	Rental Rate