



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:

***MVT PROPERTIES LTD., COMPLAINANT
C/O DOME BRITANNIA PROPERTIES INC. LTD.
(as represented by AEC Property Tax Solutions)***

and

The City Of Calgary, RESPONDENT

before:

***PRESIDING OFFICER: P. COLGATE
BOARD MEMBER: T. LIVERMORE
BOARD MEMBER: J. PRATT***

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:	090046806
LOCATION ADDRESS:	4723 1 STREET SW
FILE NUMBER:	71080
ASSESSMENT:	\$5,960,000

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, in Boardroom 1.

Appeared on behalf of the Complainant:

- Brock Ryan, AEC Property Tax Solutions
- Michael Oh, AEC Property Tax Solutions

Appeared on behalf of the Respondent:

- Michael Ryan, City of Calgary
- Harry Neumann, City of Calgary

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

[2] The Board noted the Complainant had indicated on the complaint form that the Matters before the Board related to Numbers 1, 3, 4, 5, 6, 7, 9, and 10. The Board found the Complainant only addressed Matter 3 – an assessment amount.

Preliminary Matter:

[3] No preliminary matter was raised by either party. The Board proceeded with the merit hearing.

Property Description:

[4] The subject property, constructed in 1979, is a quality 'B', 29,955 square foot suburban office in the Manchester Industrial area, an industrial, redevelopment land use area one block to the east of Macleod Trail. The subject building is demised into 28,947 square feet of office space, assessed at \$16.00 per square foot and 1,008 square feet of storage space, assessed at \$3.00 per square foot. There are 42 enclosed parking stalls assessed at \$1,080.00 per stall.

[5] Assessed using an Income Approach, the Net Operating Income (NOI) is capitalized at a rate of 6.75%.

[6] A 2,668 square foot area has been designated as exempt from taxation and removed from the taxable assessment roll to its own roll number, 201652617.

Issues:

[7] The issue presented to the Board was one of fairness and equity with comparable properties in a market zone in the vicinity of the subject property. Specifically the Complainant was requesting an adjustment to the typical rental rate to reflect equity with quality 'B' suburban

offices in the southwest market area.

Complainant's Requested Value: \$4,900,000

Board's Decision:

[8] Based upon the evidence submitted by both parties, the Board found there was insufficient evidence to alter the assessment.

[9] Bard confirmed the assessment at **\$5,960,000**.

Legislative Authority, Requirements and Considerations:

[10] In the interest of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[11] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Valuation Reports.

Position of the Parties

Complainant's Position:

[12] The Complainant submitted a series of photographs of both the exterior and interior of the subject property and the properties on the opposite side of the street, to establish the characteristics of the subject building and the adjacent neighbourhood. (C1, Pg.19-28)

[13] The Complainant submitted two sales from the southwest and southeast market areas, raising issue with the assessment to sales ratios (ASR) – 425 78 Avenue SW and 480 36 Avenue SE. (C1, Pg. 31-42) For the sale at 425 78 Avenue SW, the Complainant noted the ASR was 0.63, whereas in the southeast market area the ASR was 1.13. Based upon the two sales the Complainant argued that the assessments in the southeast market area were overvalued in comparison to the southwest area.

[14] With supporting documentation, the Complainant submitted a table of six comparable properties to illustrate, through the ASR's, the inconsistent and inequitable assessments in the market place. (C1, Pg. 73)

Address	Property Use	Year of Construction	Quality	Land Use	Site Area (sq. ft.)	2013 Assessment	Assessment per Square Foot	Sale Date	Sale Price	Sale Price per Square Foot	ASR (no time adjustment)	2013 Assessment Rental Rate
Subject												
4723 1 St SW	Suburban Office	1979	B	I-R	29,956	\$6,498,459	\$217					\$16.00
Equity Comparables												
4008 Macleod Tr SE	Suburban Office	1978	C	IC-COR3	48,344	\$7,654,830	\$158					\$12.00
10325 Bonaventure Dr. SE	Suburban Office	1978	B	C-COR3	78,087	\$12,830,000	\$164	16/03/07	\$12,150,000	\$156	105.6%	\$13.00
9705 Horton Rd SW	Suburban Office	1976	B-	I-B	53,167	\$8,568,281	\$161	07/08/08	\$9,200,000	\$173	93.1%	\$13.00
7720 Fisher St SE	Suburban Office	1976	B	C-COR3	121,551	\$19,970,000	\$164	25/02/11	\$46,000,000	\$187	87.9%	\$13.00
425 78 Ave SW	Suburban Office	1985	B	DC	7,391	\$1,206,948	\$163	30/07/12	\$1,930,000	\$261	62.5%	\$13.00
Evidence of Over Assessment	B Class SE											
480 36 Ave SE	Suburban Office	1978	B	I-G	39,449	\$7,9740,000	\$201	18/07/12	\$7,000,000	\$177	113.4%	\$16.00

Respondent's Position:

[15] The Respondent submitted the Assessment Request for Information (ARFI) for the subject property (R1, Pg. 13-17) and a summary of the recent leases in the building (C1, Pg. 18). The Respondent noted there was only one new lease in the year preceding the valuation date, at \$14.00 per square foot and commencing April 1, 2012. It was noted for the Board, three new leases were signed in the first half of 2011 for \$10.00, \$20.00 and \$10.00 per square foot.

[16] The Respondent argued that assessment values were derived from mass appraisal of lease rates for similar properties to derive a typical rental rate, which is applied to determine the assessment value, not a result of site-specific rental rates for each property.

[17] The Respondent submitted copies of Altus Insite web pages, which indicated the property as a quality 'B' office. (R1, Pg. 19)

[18] A copy of a lease listing from Cushman & Wakefield, submitted by the Respondent, stated the building was 'completely refurbished in 2005' and listed rental rates at \$10.00 per square foot. (R1, Pg. 25-29)

[19] The Respondent informed the Board the subject property was categorized in the southeast market zone. This zone covers all suburban offices south of the Beltline and Memorial Drive and along both sides of Macleod Trail, as far south as Glenmore Trail. South of Glenmore Trail to Fish Creek Park the properties are valued within the southwest. (R1, Pg. 30)

[20] The Respondent submitted a table of equity comparables to show the consistent application of \$16.00 per square foot rental rate. Photographs of the equity comparables were provided in the submission. (R1, Pg. 36-47)

[21] The Respondent submitted the "2013 Suburban Office Rental Analysis: B Quality SE", which provided a list of sixty-six leases commencing in the year prior to the valuation date. The statistical analysis indicated rates per square foot with a mean lease rate of \$15.76, a median rate of \$16.00 and a weighted mean of \$14.86. (R1, Pg. 32-33) The typical rental rate for office space was as a result set by the City of Calgary at \$16.00 per square foot.

Board's Reasons for Decision:

[22] The Board found that although the Complainant raised concerns with the quality of the subject building and its comparability with other properties, the only change requested in the assessment was the rental rate for the office space. The Complainant made no other parameter changes to the assessment to indicate a change of quality. The Complainant presented no alternative assessments to support a quality change to the assessment as suggested in its submission.

[23] The Board found the Complainant's argument regarding the ASR's to be limited as few properties were entered into evidence. The Board noted that an ASR is a reflection of a stratum of properties, not individual, and that the average and median of the stratum fall within the range of 0.95 to 1.05. To attempt to apply the ASR argument to a single property, or only a select few properties, is to distort its purpose of showing the stratum falls into the acceptable range. The Board places little weight on the analysis.

[24] With respect to the Complainant's table of equity comparables, the Board found the lack of time adjustment or evidence to the effect no time adjustment is necessary, significantly reduced the value of the argument being put forward. The Board found with sales that occurred four or five years before the valuation date, should have included as part of the submission an explanation for the lack of a time adjustment.

[25] On review of the Respondent's evidence, the Board was concerned with the inclusion of the Midnapore properties in the analysis of quality 'B' leases for it appears to be from a different market area, with a significant distance between the two apparent groups within the analysis. The Board found that the removal of those properties located in the Midnapore area did not significantly alter the statistical results, with only a minimal decrease in the average and median values. The results still provided more support for the \$16.00 per square foot rental rate than for the requested rate of \$13.00 per square foot.

[26] The Board found the Complainant had not provided sufficient evidence to show the rental rate was incorrect for the market area in which the property had been assessed. The Board found that while the Complainant had brought forward questions, it failed to convince the Board the requested change was correct and a valid alternative assessment existed.

[27] With respect to the quality assigned to the property, the Board did not have the mandate to consider this argument under the authority granted by the Act or its Regulations. A review of the complaint form, as outlined in Matters Relating to Assessment Complaints Regulation A.R. 310/2009 (MRAT), found that quality was not a 'Matter' listed for review by the Board or complaint by the owner or its agent.

[28] The Board therefore neither considered nor changed the quality assigned to the subject property.

[29] With respect to the Complainant's reference to the year over year increase the Board does not have the mandate to rule on this issue. The Board is formed each year to deal with the property assessment for that year. As the parameters change each year to reflect the inclusion of new data, the assessment for each year is unique. The Board can only hear complaints with respect to the parameters that the City of Calgary utilized in the determination of that particular year's assessment. Year over year changes are not a basis for complaints before the Board.

[30] For the reasons given, the Board found the Complainant had not provided sufficient evidence to satisfy the Board that a change to the assessment was warranted.

The Board confirmed the assessment at **\$5,960,000**.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF November 2013.

A handwritten signature in black ink, appearing to read 'Philip Colgate', written over a horizontal line.

PHILIP COLGATE
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.*

LEGISLATIVE REQUIREMENTS**MUNICIPAL GOVERNMENT ACT**

Chapter M-26

1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Division 1**Preparation of Assessments****Preparing annual assessments**

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

289(2) Each assessment must reflect (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

ALBERTA REGULATION 220/2004**Municipal Government Act****MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) "assessment year" means the year prior to the taxation year;

Part 1**Standards of Assessment****Mass appraisal**

2 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.

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Low Rise	Income Approach	-Equity Comparables -Net Market Rent/Lease Rates