



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:

***Newvest Reality Corporation. Bentall Kennedy Canada LP (as represented by MNP LLP),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***T. Golden Board Chair, PRESIDING OFFICER
A Huskinson, BOARD MEMBER
T Usselman, 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: 024023905

LOCATION ADDRESS: 5735 7 ST NE

FILE NUMBER: 71110

ASSESSMENT: \$8,340,000

This complaint was heard on 16 day of July, 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:

- *J. Langelaar*
- *G. Worsley*

Appeared on behalf of the Respondent:

- C. Neal

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

[1] There were no procedural matters.

Property Description:

[2] The subject property is a 40,514 square foot (sq ft) office warehouse located in the Deerfoot Business Centre between the airport and the Deerfoot Trail. It is a Class A2 structure built in 2000. The office portion is 3 floors and it is the office area that is the focus of the complaint as there is agreement on the warehouse portion. An assessment was prepared on the income approach.

[3] Issues:

[4] **Issue 1:** Is the subject property correctly classified as an "A" building; consequently are the cap rate of 6% and rental rate of \$13.00 the appropriate rates.

[5] **Issue 2:** Is the vacancy rate of 2% used in the assessment the appropriate rate to be used?

Complainant's Requested Value: \$6,260,000

Board's Decision

[6] The assessment is confirmed at \$8,340,000

Board's Decision on Issue 1

Issue 1: The subject property is properly classified as an A building; consequently is the Cap

rate of 6% and Rental rate of \$13.00.

Position of the Parties

Complainant's Position:

[7] The Complainant firstly explained to the Board that the achievable rent in the subject property was below that of an "A" class properties and therefore should be reclassified to a B class building and also benefit from the higher cap rate. A table showing typical rental rates for A,B, and C class buildings was presented to the Board showing that the A class structures have a \$15.00 sq ft rental rate and the B class buildings have a rental rate of \$12.00 per sq ft. Since the subject building achieves \$11.00 per sq ft it is better classified as a B class structure.

[8] A rental rate table of rents for the subject property was presented and contains 3 leases with an 11.00 sq ft median value. This compares with the Respondents information that contains a dated lease that should not be considered by the Board and does not include another valid lease in the subject property. Since the building is achieving rents similar to a "B" class building it should have both an \$11.00 per sq ft rent rate and a 6.75% cap rate.

Respondent's Position:

[9] The Respondent supported the rental rate used in the assessment with "2013 Suburban Office Warehouse Rental Analysis: A2 and A- Quality". The three leases have a weighted mean of \$13.55 per sq ft which is the basis for the \$13.00 per sq ft used in the assessment. The leases were from 3 different buildings in the same economic zone and represent the typical rental rate. A rent roll was submitted to the Board that indicates that the Complainant left out a lease in the subject building that was older however it was at \$19.00 at 200 5735 7 ST NE. A second lease in the subject building for the same address as used by the Complainant is at \$16.00 rather than the reported \$14.00.

[10] Building classification is not based only on rent rate as the Complainant has requested and the request does not consider the other criteria.

Board's Reasons for Decision:

[11] The Complainant's argument to change the Classification of the subject and therefore the cap rate is based on an analysis of the rent rate. The Complainant did not provide strong evidence to justify the removal of the January 11 lease from consideration. As for the missed lease the lease for 101 5735 7 ST NE was the same owner and starts at the same time as the

lease at 100 5735 7 ST NE. In the Complainant's discussions regarding the various typical factors applied to each category of buildings the B class typical rent rate is \$12.00 per sq ft and does not support the requested \$11.00 per sq ft. It is also noted that the Complainant's study only displays actual leases from the subject whereas the City study includes other properties and is considered by the Board to be more typical. The City study was given more weight than the Complainant's study and the result is the rental rate is appropriate and therefore the classification argument fails and the cap rate is also confirmed.

Board's Decision on Issue 2

[12] **Issue 2:** The vacancy rate of 2% used in the assessment is the appropriate rate to be used

Position of the Parties

Complainant's Position:

[13] The Complainant suggested that the location of the subject is a problem as there is only 2 access points to the Business Park and this restricts the ability to lease space. Location is important when considering comparables to be used and it is important to use comparables located closer to the subject. This was supported by a study of vacancies in the NE with a sub group focused on the Deerfoot area yielding a conclusion of 10.56% vacancy. This supports the request to apply a 10.5% vacancy rate.

Respondent's Position:

The Respondent supported the vacancy assessed with a table of 30 comparables of all office warehouse citywide. The entire City is used in this analysis as it is felt that this is a use that competes for occupants across the City and it is reasonable to create a vacancy rate using all the office warehouses. The study supports the 2% vacancy allowance for Warehouse Office space.

[14] Board's Reasons for Decision:

[15] Firstly the Board found that the Complainant did not adequately explain why the Respondents' cross City analysis was unreasonable and since it is the duty to show an error in assessment little weight was given to the Complainants evidence. Secondly the Board was not

convinced that the Complainant's analysis was broad enough using only Deerfoot Business Park. In the analysis the Complainant does not make use of the east comparables. The 10.5% vacancy is based on a sample size much smaller than the Respondent and less convincing. The vacancy rate is confirmed.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF August 2013.



Tom Golden

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.*

Roll	Address	Subject	Issue	Detail	Sub Detail
024023905	5735 7 ST. NE	office	income	vacancy	