



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:

Sun Life Assurance Company of Canada (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

P. Petry, PRESIDING OFFICER

H. Ang, BOARD MEMBER

R. Deschaine, 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: 048039200

LOCATION ADDRESS: 2015 32nd Avenue N.E.

FILE NUMBER: 71118

ASSESSMENT: \$15,340,000

This complaint was heard on the 24th day of September, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *J. Langelaar*

Appeared on behalf of the Respondent:

- *G. Good*

Property Description:

- [1] The subject, known as Airways Business Centre, is classed as a retail strip centre with two buildings constructed in 1979. It consists of 114,947 square feet (sq. ft.) of rentable area with varying unit sizes. The subject property has been assessed using the capitalized income approach. The primary dispute centres on whether this property is a retail property or whether it is more aligned with other industrial properties in the surrounding area.

Issue:

- [2] Is the subject property a retail property or is it more aligned with other industrial properties in the neighbourhood?
- [3] What are the most appropriate rental rates for the application of the capitalized income approach to value for the subject property if its predominant use is retail?
- [4] Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB). The only issues, however, that the parties sought to have the Composite Assessment Review Board (CARB) address in this hearing, are those referred to above, therefore the CARB has not addressed any of the other matters or issues initially raised in the Complaint.

Complainant's Requested Value:

- [5] The Complainant's request is that the assessment be reduced to \$8,580,000.

Board's Decision:

- [6] The CARB has determined that the subject property is similar to other industrial classed properties and has adopted a median value of \$104 per sq. ft. resulting in a reduced value of 11,950,000.

Legislative Authority, Requirements and Considerations:

- [7] The Composite Assessment Review Board (CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:
- [8] *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).*
- [9] For purposes of the 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*
- [10] The Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA section 293(1)(b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 2:
- [11] *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*

Summary of the Party's Positions**Complainant**

- [12] The Complainant provided photographs showing the comparability of the subject to other nearby industrial properties with similar exposure to 32nd Avenue N.E. The Complainant brought forward evidence to show that the lease rates for the subject are more in line with rates achievable by other similar industrial properties.
- [13] The subject property had been classed in the industrial category until 2011 when its class was changed to "retail". Neither party could explain why this change occurred.
- [14] The Complainant brought forward sales comparables for each of the two buildings on site because of their size difference. Three sales compared to building 1 at 72,946 square feet (sq. ft.) showed an average selling price of \$73 per sq. ft. and a median selling price of \$70 per sq. ft. Sales comparables for building 2 with 41,973 sq. ft., showed an average selling price of \$85 per sq. ft. and a median selling price of \$83 per sq. ft. The Complainant's analysis determined a blended rate for the sales data to be \$74.75 per sq. ft. which was then multiplied by the total sq. ft. of 114,919 sq. ft. for both buildings. This produced the Complainant's recommended value for the subject property of \$8,580,000. The Complainant also demonstrated that if the median assessed rates for the sold properties were used the value of the subject would be reduced to \$11,273,062.
- [15] The Complainant argued the subject property is assessed inequitably with other similar properties in the immediate area. The Complainant brought forward

assessment details for four other properties which had similar zoning, exposure to 32nd Avenue, similar building type and use, all of which were classed as industrial properties with typical industrial rates. The range of value for these four properties was \$99 per sq. ft. to \$120 per sq. ft. with an average value of \$106.75 per sq. ft. and a median value of \$104 per sq. ft. The Complainant argued that these values also support a reduction in the assessment based on equity with similar properties to the subject.

Respondent

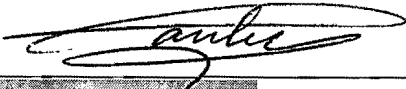
- [16] The Respondent introduced the rent roll for the subject property and pointed out that the subject property is achieving income similar to the income projected in the assessment.
- [17] The Respondent also brought forward market lease information to support the assessed rates for two of the unit size categories.
- [18] The Respondent argued that the rental rates are correct and that the assessment is fair and equitable.

Findings and Reasons for the Board's Decision:

- [19] The CARB has carefully reviewed both parties' evidence with respect to the question of whether the subject property is more aligned with the retail or industrial property categories. The CARB finds that the data presented by the Complainant is more compelling as many other properties with similar attributes are treated as industrial rather than retail.
- [20] The CARB did not place weight on the sales argument advanced by the Complainant as these properties did not appear to be located on major arterial roadways as is the case with the subject. Without adjustments for locational differences the CARB determined that the sales information is not a reliable market indicator in this case.
- [21] The Respondent's evidence respecting the fact that the subject's actual income is very close to the income the Respondent has applied in its valuation is somewhat compelling, however, this does not override the more compelling argument concerning equity.
- [22] As stated above the CARB carefully considered the equity comparables brought forward by the Complainant and is persuaded that the subject property does more correctly align with the industrial set of properties. The best evidence before the CARB is the four assessment comparables offered by the Complainant, which are very similar to the subject in many important ways. The CARB therefore has applied the median per sq. ft. value of \$104 per sq. ft. to produce a fair and equitable value for the subject property.
- [23] The CARB's decision therefore is to reduce the assessment to \$11,950,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF October 2013.



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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Strip Centre	Retail vs Industrial	Equity	Rental Rate