



## **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:

***Frieda Kates & Penny Lerner (as represented by Cushman & Wakefield Ltd.),***  
**COMPLAINANT**

and

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

before:

***W. Kipp, PRESIDING OFFICER***  
***R. Kodak, BOARD MEMBER***  
***J. Pratt, 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:

<b>ROLL NUMBER:</b>	<b>114178106</b>
<b>LOCATION ADDRESS:</b>	<b>1603 – 62 Avenue SE, Calgary AB</b>
<b>FILE NUMBER:</b>	<b>71705</b>
<b>ASSESSMENT:</b>	<b>\$2,060,000</b>

This complaint was heard on the 3<sup>rd</sup> day of July, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *J. Goresht*

Appeared on behalf of the Respondent:

- *S. Paulin*

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

[1] There were no preliminary procedural or jurisdictional matters to be decided by the CARB.

**Property Description:**

[2] The property that is the subject of this assessment complaint is a strip shopping centre known as Lynnwood Shopping Centre. The property comprises a 35,737 square foot commercial site occupied by a 12,152 square foot strip shopping centre building that was completed in 1978. The property is classified as a "C-" quality strip centre. There are 11 commercial rental units, most of which are occupied by tenants as typically found in strip centres (convenience store, liquor store, laundromat, restaurant).

[3] The 2013 assessment was prepared using an income approach. Retail store rental rates of \$13.00 and \$14.00 per square foot were applied, depending on the sizes of each tenant space. An overall 8.0 percent vacancy allowance was deducted as was a 1.0 percent non-recoverable operating expense allowance. Operating costs on vacant space were based on a rate of \$8.00 per square foot. A capitalization rate of 6.75 percent was applied to the net operating income to produce the \$2,060,000 assessment. The effective valuation date is July 1, 2012 and the property condition date is December 31, 2012.

**Issues:**

[4] In the Assessment Review Board Complaint form, filed March 4, 2013, Section 4 – Complaint Information had check marks in nine of the ten boxes: Description of the property, Assessment amount, Assessment class, Assessment sub-class, Type of property, Type of improvement, School support, whether the property is assessable and whether the property is exempt from taxation.

[5] In Section 5 – Reason(s) for Complaint, the Complainant stated that the assessment was incorrect or too high for a number of reasons.

[6] At the hearing, the Complainant pursued the following issue: Equity – compared to other similar shopping centres, the subject's isolated location should be reflected in a lower rent rate being applied to retail space.

**Complainant's Requested Value: \$1,032,578**

**Board's Decision:**

[7] The assessment is confirmed at \$2,060,000.

**Position of the Parties**

**Complainant's Position:**

[8] The subject assessment produces a rate of \$169.52 per square foot of building area. The Complainant provided assessment information on five other southeast Calgary properties that produced a range of assessment rates from \$84.92 to \$157.46 per square foot of building area. These other properties were in the "C" or "C-" quality class. Two of the five properties are assessed as "land only" and are valued by sales comparison and not the income approach.

[9] The subject property is located within a residential community and has no exposure to a major traffic artery. It therefore suffers from its isolated location and should be assessed using rates applied to other centres with poor locations. A rent rate of \$7.00 per square foot should be applied to all of the space in the subject, regardless of unit size.

[10] Two of the comparable properties have space where a rent rate of \$7.00 per square foot has been applied. The space is labelled in assessment summary reports as "poor location" space.

[11] After hearing the Respondent's evidence, the Complainant, in its summary, pointed out that the 2013 ARFI response had the letter "G" in the lease type column, suggesting that the leases were "gross" rather than "net." Actual net rents would therefore be much lower than the typical rents applied in the assessment valuation, thus proving that this centre cannot attract typical rents due to its location. This position had not been presented at the time that the Complainant gave direct evidence and argument. Also during summation, after hearing the Respondent's evidence, the Complainant suggested that perhaps the subject property suffered due to limited onsite parking. There was no evidence to support this argument.

**Respondent's Position:**

[12] The Respondent stated that the "poor location" rent rate is applied to poorly located space within a shopping centre and not to the whole centre. The 2388 Crestwood Road SE property is an exception. It was given a lower rent rate because of the lack of onsite parking which affected its occupancy. One of its rental units had remained vacant for 15 years as a result of the lack of parking.

[13] It was shown that comparably sized units in the subject and other "C-" strip centres were consistently assessed using the same rent rates.

[14] The Respondent provided copies of responses to the 2012 and 2013 Assessment Request For Information (ARFI) forms sent to the property owners. It appeared from those responses that the individual completing those forms misunderstood some of the terms in the forms. For example, in the 2012 response, it appeared that the rent rate was written into the

column for Rent Concessions per square foot. The annual rental rate column had been left blank. Similar irregularities were pointed out on the 2013 response.

**Board's Reasons for Decision:**

[15] The CARB confirmed the assessment for the following reasons.

[16] The Complainant provided no market evidence to show that the subject shopping centre suffered economically due to its location. It was argued that this was the case because the property is within a residential neighbourhood with no exposure to traffic from outside of the community, but there was no market support for that argument.

[17] Poor location rent rates are applied to rental units within a shopping centre where location is inferior to that of other units in the same centre. One of the Complainant's comparable properties was assessed using the poor location rate due to a lack of onsite parking. During summation, the Complainant stated that the subject could also be impacted by a lack of parking spaces but there had been no evidence provided to support that position.

[18] It was also during the Complainant's summation that it was stated that the leases within the subject property appeared to have been "gross" leases rather than "net" leases. If that was the case, then the Complainant had an opportunity to provide supporting documentation as part of its evidence but there was none in the disclosure brief.

[19] Due to the lack of relative market and equity evidence from the Complainant, the CARB found no support for the requested assessment reduction and confirmed the 2013 assessment at \$2,060,000.

DATED AT THE CITY OF CALGARY THIS 15<sup>th</sup> DAY OF August 2013.

  
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W. Kipp  
Presiding Officer

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
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 Internal Use***

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	RETAIL	STRIP PLAZA	INCOME APPROACH	EQUITY COMPARABLES