

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:

Castera Properties Inc. and Camargue Properties Inc. (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:

ROLL NUMBER:	053241303
LOCATION ADDRESS:	920 – 36 Street NE, Calgary AB
FILE NUMBER:	71710
ASSESSMENT:	\$14,890,000

This complaint was heard on the 2nd 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. Gorsht*

Appeared on behalf of the Respondent:

- *H. Argento, N. Sunderji*

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

[1] One of the issues for this complaint was the total rentable area of the building. At the outset of the hearing, the Respondent advised that the total area had been amended from 63,370 to 62,497 square feet. The recalculation of the assessment based on the revision was \$14,680,000. The Complainant stated that this change was acceptable.

[2] The CARB accepts the revised assessment of \$14,680,000 as the starting point for the remainder of the issues to be addressed.

Property Description:

[3] The property that is the subject of this assessment complaint is known as Marlborough West Shopping Centre. It is located on the east side of 36 Street NE, just north of Marlborough Mall which is a regional mall shopping centre. The northeast leg of Calgary's light rail transit system (LRT) runs north-south in the centre of 36 Street. There is a passenger station to the south of Marlborough Drive/8 Avenue NE.

[4] The subject comprises a 4.46 acre commercial lot that is improved with a 62,497 square foot shopping centre that includes 5,886 square feet of second floor office space. Completed in 1980, this building is in the "B+" quality class. Paved parking is in front of the building. There is restricted rear building access so loading and unloading for retail tenants must be done through the front doors.

[5] An income approach was used to calculate the 2013 assessment. Retail rent rates of \$17.00, \$20.00, \$21.00 and \$22.00 per square foot were assigned, depending on the size of the rental unit. Office space was assessed on the basis of a \$12.00 per square foot rent. An overall vacancy allowance of 12.5 percent was deducted and an additional 1.0% was deducted for non-recoverable operating expenses. The deduction for operating costs in vacant space was based on \$8.00 per square foot. The net operating income was capitalized at a rate of 6.75 percent.

Issues:

[6] In the Assessment Review Board Complaint form, filed March 4, 2013, Section 4 – Complaint Information had check marks in nine of the ten boxes: for 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.

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

[8] At the hearing, the Complainant pursued the following issues: a) the actual vacancy of 25.1 percent should be recognized in the assessment, and b) the property is inequitably assessed. After completing an analysis of the property and the assessment, the Complainant chose to only adjust the vacancy rate to arrive at the requested assessment amount.

Complainant's Requested Value: \$11,500,000

Board's Decision:

[9] The CARB accepts the amended assessment of \$14,680,000 based on the revision to the assessable building area but makes no other changes.

Position of the Parties:

Complainant's Position:

[10] In support of the claim for a higher vacancy allowance, the Complainant provided a letter from the property owner wherein it was stated that there had been one vacant unit when the property was purchased in April 2010 but in March 2011, several leases expired and they were not renewed. As at May 2013, those vacated suites (total of 17,123 square feet) remained vacant.

[11] A copy of the rent roll as at May 8, 2013 showed four vacant units having a total area of 15,678 square feet (25.1 percent of the total area).

[12] A Calgary commercial real estate agency had the listing agreement for vacant space in the centre. A listing brochure (undated) showed that there had been 23,024 square feet of vacancy but two suites were marked as leased leaving 20,743 square feet of vacancy.

[13] A copy of CARB 1347/2012-P, the CARB order following the 2012 complaint hearing on this property was provided in evidence. At that hearing, the Complainant had reported a vacancy of 34 percent. Argument and evidence at that hearing focussed on the large tenant vacating its space shortly after the property was purchased in 2010. Some of the reasons given for the high vacancy and the inability to re-lease that space were the very large size of the shopping centre compared to other strip centres, the wide variance in tenant rental unit sizes, the lack of rear loading doors on retail units, the presence of second floor offices which is uncommon in strip centres and the fact that deferred maintenance had not been undertaken.

[14] The Complainant's position regarding an inequitable assessment centred on data pertaining to the assessments of six other retail properties that the Complainant considered to be comparable to the subject. It was pointed out that rent rates applied to various retail categories varied from property to property.

[15] From the comparison of the subject to the other centres, the Complainant found assessment rates per square foot of building area:

Address – Class	Assessment/Square Foot (Bldg)
Subject B+	\$234.97
Silver Springs Bv C+	\$161.41
2323 – 32 AV NE C+	\$102.07
1725 – 32 AV NE C+	\$146.97
Sunridge Way NE B-	\$199.95
723 – 46 AV SE B/C	\$154.19
999 – 36 ST NE A2/B+	\$190.75

[16] By increasing the vacancy allowance for the subject from 12.5 to 25.1 percent, the Complainant recalculated the assessment which was rounded to \$11,500,000. The recalculation also accounted for the change in floor area. This brought the assessment rate to \$184.00 per square foot of building area. This recalculation was considered to adequately address the vacancy and equity issues raised by the Complainant.

Respondent's Position:

[17] The Respondent argued that this shopping centre does not have a long term vacancy problem, despite the fact that not all of the space vacated in 2011 by one large tenant has been fully re-leased. That tenant left in March 2011 and the effective date of the 2013 assessment is July 1, 2012. Reference to a real estate agent's listing materials (the same agent but slightly different undated materials to those in the Complainant's evidence) showed that there has been leasing of various retail and office units.

[18] Copies of historic Assessment Request For Information (ARFI) responses were presented. In the 2009 response, the owner reported vacancy of 1.64 percent. For 2010, the vacancy rate was 6.25 percent and for 2011 it was 7.66 percent. It was not until the July 2012 response that the owner reported a higher than typical rate of 24.48 percent. Over the same period of time, the market was showing generally increasing vacancies in this market area and the vacancy allowance used for assessments of strip centres increased from 8.00 percent in 2009 to 12.5 percent in 2012. The Respondent noted that in the 2012 CARB decision resulting from the CARB hearing last year, the total vacancy had actually declined from 34 percent to the currently requested 25.1 percent. This is another indication that the vacancy situation in the subject is declining rather than increasing.

[19] The rent roll attached to the 2012 ARFI response showed numerous lease renewals as well as a number of new leases, many of which occurred after the property purchase in April 2010.

[20] The Respondent did not accept the six shopping centres analyzed by the Complainant as being comparable to the subject. First of all, only four of the six properties were strip retail centres. The other two were neighbourhood centres which do not compare to strips. Secondly,

of the four strip centres, not one was in a B+ quality category like the subject. Assessment detail on two other northeast Calgary B+ centres was provided, showing that retail rents, vacancies and other valuation parameters were the same as those used in assessing the subject.

[21] The Respondent concluded that the Complainant was not recognizing the mass appraisal methodology to which the assessor is bound. The Complainant was attempting to mix actual vacancy with typical rates for the other valuation parameters.

Board's Reasons for Decision:

[22] The CARB finds that the Complainant has not presented sufficient evidence or argument to warrant additional changes to this assessment.


[23] While data on six other shopping centre properties was provided, two of those properties were not strip centres and none were B+ quality properties.

[24] An analysis of the subject rent rolls and marketing information shows that there has been significant leasing taking place in the property. While one large unit of 10,045 square feet has not been re-leased since it was vacated in March 2011, there have been many smaller lease transactions. Some of these were lease renewals for existing tenants while others were new leases to new tenants. The leasing agent advertises that the large unit could be demised into smaller units but that apparently has not happened. There was leasing activity in the second floor office space as well as in the ground floor retail area. The May 2013 rent roll in the Complainant's evidence shows numerous leases with commencement dates subsequent to the April 2010 purchase date.

[25] There are shopping centres that display a serious or chronic vacancy problem over time but this centre is not one of those. All shopping centres experience periodic changes in tenancy with some tenants vacating space on lease termination and others renewing for additional lease terms. There has been and continues to be leasing activity in the subject property and the overall vacancy rate shows decline from the 2011 valuation to the 2012 valuation.

[26] The CARB sets the 2013 assessment at \$14,680,000.

DATED AT THE CITY OF CALGARY THIS 26th DAY OF July 2013.



W. Kipp
Presiding Officer

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

<u>NO.</u>	<u>ITEM</u>
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

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	RETAIL	STRIP PLAZA	INCOME APPROACH	VACANCY