

## **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:

***52 Memorial Corporation Ltd. (as represented by Cushman & Wakefield Ltd.),***  
**COMPLAINANT**

and

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

before:

***W. Kipp, PRESIDING OFFICER***  
***R. Kodak, MEMBER***  
***J. Pratt, 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>052059003</b>
<b>LOCATION ADDRESS:</b>	<b>5269 Memorial Drive SE, Calgary AB</b>
<b>FILE NUMBER:</b>	<b>71713</b>
<b>ASSESSMENT:</b>	<b>\$8,940,000</b>

This complaint was heard on the 2<sup>nd</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:

- *M. Jankovic, S. Paulin, H. Argento*

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

[1] One of the issues brought forward by the Complainant related to an increase in the amount of leased space occupied by a tenant that was exempt from taxation.

[2] M. Jankovic, on behalf of the Respondent had reviewed the matter and found that the floor space occupied by the exempt tenant should be increased from 2,906 square feet to 3,886 square feet. By recalculating the assessment for the taxable portion, the new assessment for Roll Number 052059003 would be reduced to **\$8,774,000**.

[3] The CARB accepted this revised assessment as the starting point for the Complainant's other issue.

[4] M. Jankovic left the hearing and S. Paulin then represented the Respondent.

**Property Description:**

[5] 52 St. Plaza is the property that is the subject of this assessment complaint. It is a retail strip shopping centre situated on a 51,372 square foot land parcel at the southwest corner of Memorial Drive and 52 Street SE. Forest Road SE forms the west boundary of the property. The building is primarily a one storey strip of retail stores but there is a partial second floor developed as offices. Assessment records show years of construction as 1974, 1975 and 2001. It is rated as a B+ quality strip retail centre.

[6] The total building area is 35,304 square feet of which 3,886 square feet is occupied by a tenant that is exempt from taxation.

[7] The 2013 assessment was prepared using an income approach. Commercial rental units were assigned typical rent rates depending on size. 6,600 square feet of bank space was assessed using a \$27.00 per square foot net rental rate. Other retail spaces were assigned rents from \$20.00 to \$22.00 per square foot except for one 1,179 square foot "poorly located" unit that had a rent of \$10.00 per square foot. Office space was assessed using a \$14.00 rental rate. All space was given an 8.0 percent vacancy allowance. Non-recoverable operating expenses of 1.0 percent were deducted and expenses on vacant space were based on \$8.00 per square foot. The resulting net operating income was capitalized at a rate of 6.75 percent in order to arrive at a value. The amount allocated to the tax exempt space was deducted to arrive at the taxable assessment.

**Issues:**

[8] 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.

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

[10] At the hearing, the Complainant pursued the following issue: the rental rate applied to the bank rental unit should be reduced from \$27.00 to \$22.00 per square foot.

**Complainant's Requested Value: \$8,330,000 (this includes the change due to the increase in size of the tax exempt tenant area)**

**Board's Decision:**

[11] The CARB accepts the recalculated assessment brought about by the change in the tax exempt tenant's unit but makes no other changes.

**Position of the Parties****Complainant's Position:**

[12] The 6,600 square feet of retail space occupied by the Royal Bank of Canada (RBC) is typical retail space which should be assessed at \$22.00 per square foot rather than the "C" quality bank rate of \$27.00 per square foot. The bank premises are in the centre of the retail strip and there is no provision for a drive through ATM feature.

[13] A rent roll in the Complainant's disclosure brief indicates that, in 2007 when the RBC lease commenced, the rent rate of \$21.45 per square foot was not dissimilar to rates for other retail space in the shopping centre that was rented around that time.

**Respondent's Position:**

[14] The Respondent informed the CARB that the subject property owner had not complied with the annual "Assessment Request For Information" (ARFI) that had been sent on June 29, 2012 and followed by a reminder on July 18, 2012. Despite the non-compliance, the Respondent did not make application for the CARB to refuse to hear the complaint pursuant to Section 295 of the Municipal Government Act.

[15] Having regard to the bank rent rate issue, the Respondent stated that the standard assessment practice is to consider bank premises separately from other retail space in shopping centres. Separate market surveys are done to determine typical rents for the two occupancy types. Quality ratings are determined based on property and premises characteristics. The bank premises in the subject centre were rated as "C" quality even though

the remainder of the centre was rated at "B+". From the "C" class bank rent survey, the \$27.00 per square foot rent rate was applied to the space.

[16] In support of the rent rate, the Respondent provided data on three other bank premises in southeast Calgary that are assessed using the \$27.00 per square foot rate. None of these three banks have drive-through ATM's. In fact, the presence or absence of this feature does not factor into the typical rent determination.

**Board's Reasons for Decision:**

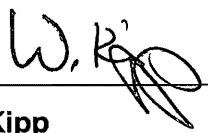
[17] The CARB understands that it might not have been possible for the Respondent to know that the tax exempt tenant had increased its lease space since the property owner had not responded to the ARFI. Had there been a response, the taxable assessment could have been corrected prior to the mailing of the annual assessment notice. The CARB accepts the Respondent's recalculation. The Complainant also indicated that the difference between the two parties on the size issue was negligible and agreed with the revised assessment but only as far as the exempt space was concerned.

[18] The CARB was not given any evidence to show that the subject shopping centre was not properly classified as a "B+" quality property. Nor was there any evidence from the Complainant to show that the bank premises in the property were anything other than "C" class.

[19] The Respondent, on the other hand, provided data on three other "C" quality banks to support the \$27.00 per square foot rent rate. This data showed that the subject property was being treated equitably as far as the assessment of the bank space was concerned. The CARB notes that the Complainant's requested rent rate of \$22.00 is the rate applicable to tenant units in the 0-1,000 square foot category. Larger tenant spaces are assessed at lower rates but the Complainant did not ask for a rate in the 6,000+ square foot category.

[20] The 2013 taxable assessment is set at \$8,774,000.

DATED AT THE CITY OF CALGARY THIS 17<sup>th</sup> DAY OF July 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	NET MARKET RENT/LEASE RATES