



Calgary Assessment Review Board

REVISED 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:

***CINEPLEX ENTERTAINMENT LP,
(as represented by COBANK PROPERTY TAX SERVICES INC.)
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***R. Glenn, PRESIDING OFFICER
A. Huskinson, BOARD MEMBER
P. Pask, 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: 175035914
LOCATION ADDRESS: 151 Crowfoot CR NW
FILE NUMBER: 71741
ASSESSMENT: \$108,030,000 (Entire Property)
\$15,970,000 (Theatre Portion Only)

This complaint was heard on Tuesday, the 2nd day of October, 2013 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 10.

Appeared on behalf of the Complainant:

- J. Cohen, Agent

Appeared on behalf of the Respondent:

- J. Lepine, and S. Turner, Assessors

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

[1] When asked, neither party raised any issues with regard to either Jurisdiction or, Procedure. However, the parties jointly requested that the argument and evidence from **CARB 72055-2013-P** should be applied to this hearing. The Board agreed to do so.

Property Description:

[2] The subject is a 51,151 square foot movie theatre within the subject property (a Power Centre located in NW Calgary) which was special purpose built in 1993, known as the Crowfoot Crossing Theatre. The initial lease was signed in 1997, but the lease was re-negotiated in 2005, effective for a period of 12 years. The subject is located on the west side of the subject shopping centre just off Crowfoot Crescent NW.

Issues:

[3] The parties agreed that the sole issue for determination is the appropriate rental rate and therefore, the appropriate assessment for the subject theatre premises.

Complainant's Request:

[7] \$12,668,000

Board's Decision:

[8] \$14,782,000

Complainant's Position:

[9] The Complainant tentatively argued that a \$20/SF rental rate, based on fair market rent,

would be appropriate for the subject property.

-[10] This position however was contingent upon the decision of the Board in a matter (**CARB 72055-2013-P**) which was heard the same day as this matter. The contingency was: to determine what was the correct methodology to be used in assessing tenants?

[11] Stated another way: if the 2013 assessment was based on the current contract rent in effect for the tenancy, then it would be the Complainant's evidence that the contract rent for the subject tenancy (\$15.90 in this case) should be adopted in the valuation of the subject tenancy.

[12] The decision in **CARB 72055-2013-P** was not based on the current contract rent. In that decision, the Board relied much more heavily on the subject specific information provided by the the Complainant.

Respondent's Position:

[13] The Respondents argued that their 2013 Theatre analysis supports the \$20/SF assessment and that the subject assessment ought to be confirmed based on that analysis.

[14] They argued that the part of the Complainant's presentation which dealt with such things as theatre admissions and concessions should be disregarded.

Board's Decision:

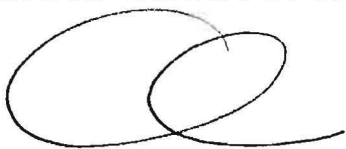
[15] The Board's decision in **CARB 72055-2013-P** was not based on the contract rent in that matter. It was instead founded on the site specific evidence presented.

[16] In this matter the Complainant tentatively argued the assessment was correct, subject to the Board deciding that the contract rent was determinative. The Board's decision in **CARB 72055-2013-P** was that in these types of matters, the contract rent was not determinative.

[17] Based on the Complainant's argument, the Board notes that the contingency was not fulfilled, and so the Board accepts the Complainant's original tentative position that the proper rent figure to be used is \$20/SF .

[18] The Board finds that the proper rent figure for the subject is \$20/SF, which would normally render an assessment of \$15,970,000. However, in applying the Cap Rate decision in **CARB 72055-2013-P** the assessment here must be adjusted. Keeping in mind a revised Cap Rate of 6.75%, the assessment on the entire property was reduced to \$100,000,000 and the assessment here on the theatre portion only is herewith reduced to: \$14,782,930, or, rounded to \$14,782,000.

DATED AT THE CITY OF CALGARY THIS 10 DAY OF DECEMBER, 2013.



R. Glenn
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Additional Complainant Disclosure
3. C3	Additional 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.*