



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:

Seto Holdings Ltd. (as represented by Assessment Advisory Group Inc.)
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Krynski, PRESIDING OFFICER
H. Ang, BOARD MEMBER
J. Kerrison, 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:	090035908
LOCATION ADDRESS:	5001 Macleod Trail SW
FILE NUMBER:	71869
ASSESSMENT:	769,000

This complaint was heard on the 24th day of June, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 31 Avenue NE, Calgary, Alberta, Boardroom #10.

Appeared on behalf of the Complainant:

- *Mr. S. Cobb*
- *Mr. T. Youn*
-

Appeared on behalf of the Respondent:

- *Mr. E. D'Altorio*

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

- [1] The parties had no objections to the panel representing the Board as constituted, to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

- [2] The subject property is a freestanding C- Class retail building, located at 5001 Macleod Trail, SW. The improvements, with a total Net Rentable Area of 4,788 square feet (sf), consisting of a 2,788 main floor retail unit, and a 2,000 sf upper residential unit. The building year of construction is circa 1946, and it is situated on a 5,496 sf parcel of land.

Issues:

Issue #1: Should the main floor retail rental rate be reduced from \$14.00 to \$11.00?

Complainant's Requested Value: 656,000

Board's Decision

- [3] On review and consideration of all the evidence before it in this matter, the Board found the Complainant's evidence was sufficiently compelling to vary the assessment.
- [4] The Board reduces the assessment to 656,000

Legislative Authority, Requirements and Consideration

- [5] The Calgary Composite Assessment Review Board derives authority from the Municipal Government Act and associated Government of Alberta Legislation and Regulations.

Position of the Parties

Complainant's Position:

- [6] The Complainant argues that the Subject building is of poor quality. Built in 1946, it is very dated, has an eight foot ceiling height, minimal renovations and poor maintenance. It offers no customer parking, and is built into a hillside, due to topography issues.
- [7] Submitted into evidence, were maps, photos, etc., providing a visualization of the Subject Property's location, as well as general physical condition of the interior and exterior of the building.
- [8] In support of its' position, the Complainant has submitted the Assessment Request for Information (ARFI) for the Subject property, indicating a single lease to the main floor tenant. This lease, signed in January, 2011, was a month-to-month renewal of a previous five year lease. It was renewed at the original rate of \$10.76 per square foot (psf).
- [9] Two rent comparables were also in evidence:
- **1832 36 Street SE**
A 5,000 s.f. strip retail building in Forest Lawn. The Building Class (C-), is similar to that of the Subject. Included was a completed 2012 Assessment Request for Information, reflecting a single new lease at \$11.00 psf, commencing March, 2012, and two lease renewals at \$10.00 psf, commencing January, 2012. Lease areas range from 1,250 to 2,500 sf. Year of construction is 1976. The complainant suggests the building to be in a similar physical condition as the subject, and both are located on main traffic thoroughfares.
 - **806 Edmonton Trail NE**
A 7,600 sf C Class freestanding Retail building, constructed circa 1951, also located on a main traffic thoroughfare. Physical condition was deemed to be

slightly superior to the Subject. A 2012 ARFI was referenced, wherein a 1,700 sf lease was signed in January, 2011. The lease was predicated on a Gross Rate of \$18.00 psf. When adjusted to net by the indicated \$7.00 per square foot operating cost, this yields a net rental rate of \$11.00 psf.

- [10] With the two Comparables, and the current lease renewal on the Subject property, the Complainant contends that the assessed rental rate of \$14.00 psf is overstated, and \$11.00 psf is shown to be a more applicable rental rate.

Respondent's Position:

- [11] The Respondent submitted photos, maps and aerial photos, etc., providing a visual description of the Subject Property, location, building placement, etc.
- [12] The Respondent explained that the City, in the Income Approach valuation process, applies "typical" rents, determined through an analysis of rents from similar properties, not actual rental rates, and that the Subject lease data would not have been considered, as it was a "month-to-month" lease, thereby being atypical.
- [13] To that end, the Respondent submitted a Chart containing four lease comparables:

<u>Address</u>	<u>Leased Area</u>	<u>Lease Date</u>	<u>Lease Rate</u>	<u>Term</u>	<u>Quality Class</u>
4802 17 Ave SE	4,860	2006/10/01	\$15.00	10	C-
1046 18 Ave SE	2,800	2001/01/03	\$17.00	2	C+
1416 Centre St NE	3,600	2012/01/01	\$14.50	10	C+
824 1 Ave NE	3,654	2010/01/02	\$15.05	3	C+

[14] Additionally, the Respondent provided three Equity Comparables:

<u>Address</u>	<u>Sub Prop Use</u>	<u>Sub Mkt Area</u>	<u>Area / sf</u>	<u>Rate/sf</u>	<u>Overall Quality</u>
2720 Bowness Rd NW	CM0201	BO1	2,900	\$14.00	C-
4802 17 Ave SE	CM0201	IA1	4,860	\$14.00	C-
5011 Macleod Tr SW	CM0201	MT2	2,870	\$ 14.00	C-

Board's Reasons for Decision:

- [15] The Board was in agreement with the Complainant that, based on the photographs provided, the Subject property was in a poor physical condition. The rental rate comparisons provided by the Complainant were of relatively current leases, in similar, or slightly superior buildings, displaying rental rates in the \$10.00 to \$11.00 range. The Board also took into consideration, the Subject lease, which was renewed in January 2011 for \$10.76 psf, the same rate as was originally negotiated in 2006. The fact that the lease rate had not increased from 5 years prior, along with the month-to-month renewal clause speaks to the desirability of the subject property in the current rental market.
- [16] By contrast, the Respondent's lease rate comparables were found to be unsupportive of a \$14.00 rental rate for the Subject Property. Three of the leases were of a C+ quality, compared to the Subject C- quality. Of the four comparables, two have lease commencement dates of 2001 and 2006, rendering them too dated for a current market comparison.
- [17] In summary, the City's market evidence was lacking, and unsupportive of a \$14.00 retail rental rate for the Subject. Equity Comparables provided by the City, although being C-Class, did not include any information as to the physical condition of the properties, making it difficult for the Board to consider comparability. The best market evidence was that provided by the Complainant, and the Board reduces the rental rate to \$11.00 psf.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF July 2013.



Walter Kryszinski



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
CARB	Commercial Retail	Freestanding Retail	Retail Rental Rate	