

## **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

***William-Arnold Holdings Ltd.***  
***(as represented by Assessment Advisory Group Inc.), COMPLAINANT***

and

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

before

***L. Yakimchuk, PRESIDING OFFICER***  
***B. Jerchel, BOARD MEMBER***  
***G. Milne, 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: 067187500**

**LOCATION ADDRESS: 802 16 Av SW**

**FILE NUMBER: 71985**

**ASSESSMENT: \$4,400,000**

This complaint was heard July 8, 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:

- *T. Youn, Assessment Advisory Group Inc. (AAG)*
- *D. Bowman, AAG*

Appeared on behalf of the Respondent:

- *C. Chichak, City of Calgary Assessment*
- *K. Haut, City of Calgary Assessment*
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**Board's Decision in Respect of Procedural or Jurisdictional Matters:**

[1] The Complainant and the Respondent agreed to present four appeals concurrently as they represented four units within the same block of buildings with similar issues. Roll #s 067187609, 067187708, 067187500 and 067188003 were heard together and will share similar evidence in the written decision, with separate attention paid to issues particular to each appeal.

**Property Description:**

[2] The subject property, located in the Tomkins Park Shopping Centre, is assessed as a retail building in the Beltline community of Calgary. It has been assessed with 4,480 square feet (sf) of office space, 4,257 sf of retail space, 5,500 sf of retail space below grade and four parking stalls, using the Income Approach.

**Issues:**

- [3] Is the Capitalization (Cap) rate correct for this assessment?
- [4] Is the vacancy rate accurate for this assessment?
- [5] Are the parking stalls assessed accurately?

**Complainant's Requested Value: \$2,930,000**

**Board's Decision:**

[6] The Board confirms the assessment at \$4,400,000.

**Legislative Authority, Requirements and Considerations:**

The Composite Assessment Review Board (CARB) derives its authority from the Municipal

Government Act (MGA) RSA 2000 Section 460.1:

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

For the purposes of this hearing, the CARB will consider MGA Section 293(1)

In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

and MRAT Section 4(1), which states that

The valuation standard for a parcel of land is

- (a) market value, or
- (b) the parcel is used for farming operations, agricultural use value.

### **Position of the Parties**

#### **Complainant's Position:**

[7] Capitalization (Cap) Rate: T. Youn, AAG, on behalf of the Complainant, argued that the City was inconsistent in its application of Cap rates. He argued that the entire block of four buildings had similar qualities, but was assessed at a 5.75% or 5.5% Cap rate depending on the proportion of retail to office area in each space. The Complainant believed that these buildings should be uniformly assessed with a 5.75% Cap rate.

[8] Vacancy: The Complainant provided a Vacancy Analysis for the period from January, 2010 to August, 2012 which demonstrated that the subject building had an overall vacancy rate of 0% for office space, 34.16% for retail space, and 55.56% for retail below grade space with an average of 32.73% vacancy in that time period. In 2012, the overall vacancy rate was 59.06%. T. Youn argued that this analysis demonstrated that the subject property was atypical and should be assessed using a higher vacancy rate than the City's typical rates for this area.

[9] Parking: The Complainant also argued that the parking spaces for this building were inferior and atypical because parking was provided in "tandem", where cars were parked in rows of two or three, one behind the other and the front cars could not move until the ones behind them were moved. T. Youn stated that the rent for these stalls was \$175/month because

they could not command a higher rate given the unconventional parking arrangement. The Complainant asked the Board to reduce the rate for parking to \$175/month, or \$2,100/year to recognize the constrained parking available.

**Respondent's Position:**

[10] Cap rate: C. Chichak, City of Calgary assessor, explained that the Cap rate was applied at 5.5% for retail space and 5.75% for office space. He said that the City Cap rate study established the rates using a large number of leases and that in the Beltline buildings that were predominantly retail space were assessed using 5.50% Cap rate and those that were predominantly office space were assessed using 5.75% Cap rate.

[11] Vacancy: The Respondent argued that the City uses typical rates rather than actual rates in order to have equitable assessments for similar properties. Both Assessors explained that atypical vacancy rates could usually be attributed to a cause. If this cause was defined, the assessment could include a deduction for that condition. In this case, they indicated that the Complainant had not indicated a reason for the high vacancy rates

[12] Parking: The Respondent argued that the Complainant did not show proof of the type of parking that was described in the evidence. He also said that the Complainant had shown there were some single parking spaces as opposed to the tandem ones, but the Assessment Request for Information (ARFI) showed that all parking spaces were rented out at \$175.

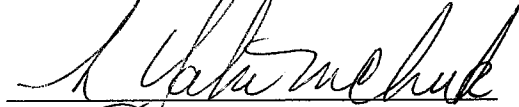
**Board's Reasons for Decision:**

[13] Cap rate: The Board found that the City applied the Cap rate in an equitable manner which resulted in a fair assessment of value. In the case of the four buildings in this block, two were assessed with a 5.50% Cap rate and two were assessed with a 5.75% Cap rate, according to what type of space was largest in each building. This is the same process that is applied to all buildings of this type in this area.

[14] Vacancy: The Board found that the Complainant was correct in the Vacancy Analysis, and this block of buildings has a high vacancy rate. However, typical Vacancy rates should be applied in order to be equitable. There was no issue named to explain the Vacancy rate, so no accommodation could be made in the rates to correct for that issue.

[15] Parking: The Board found the Complainant did not provide sufficient evidence to convince the Board that the parking for this block was atypical.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF August 2013.



**L. Yakimchuk**

**Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
3. 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.*

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Retail/Office	Low Rise	Income Approach	Lease Rate/CAP