



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:

**35BB Holdings Ltd., (as represented by Linnell Taylor Assessment Strategies),
COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

***R. Fegan, PRESIDING OFFICER
H. Ang, BOARD MEMBER
P. Charuk, 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:	066094707
LOCATION ADDRESS:	1638 10 AV SW
FILE NUMBER:	72010
ASSESSMENT:	\$5,500,000

This complaint was heard on 18TH day of July 2013 at the office of the Assessment Review Board located at Floor Number 3 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- J. Mayer, (Linnell Taylor Assessment Strategies)

Appeared on behalf of the Respondent:

- H. Yau, (City of Calgary)

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

[1] No procedural or jurisdictional matters were raised.

Property Description:

[2] The subject property is a low rise office building located in the community of Sunalta. It was built in 1980 and has an area of 23,760 square feet located on a parcel of land that is 27,482 square feet.

Issues:

[3] The issues raised by the complainant were; the capitalization rate used by the assessor is too low and has not been applied equitably; the rate applied to the "Office Below Grade" is incorrect. The "Office Below Grade" should be assessed at the \$3.00 rate for storage space rather than the \$8.00 rate for below grade office space.

Complainant's Requested Value: \$4,796,000.

Board's Decision:

The complainant is allowed in part and the assessment is set at \$5,020,000.

Position of the Parties

Complainant's Position:

[4] The complainant explained that the previous owner had partitioned off and finished the basement space to suit their need for classrooms and lab-rooms. The complainant argued that this space could no longer attract tenants and could only be offered to existing tenants as storage space. The complainant provided photos indicating that the basement space had been finished with tile floors, drywall walls, and acoustic tile ceilings with fluorescent lighting. The photos also indicated that some of the space was being used for storage.

[5] The complainant stated that the 5.25% capitalization rate that had been applied to the subject was too low for a building of that age and condition especially in that location. The complainant provided three comparable properties that had been assessed using a higher cap rate than the one that had been applied to the subject.

[6] Comparable, 1615 10 AV SW., is a three storey office building located directly across 10 AV SW from the subject and is assessed using a 5.75% cap rate.

[7] 133 12 AV SE is a low rise office building located in the Beltline and is assessed using a 5.75% cap rate.

[8] 1215 13 ST SE is a low rise office building located in Inglewood and assessed using a 6.0% cap rate.

[9] The complainant also provided the sales information for two of the three equity comparables and the capitalization rate derived from these sales. The cap rates from these sales were 6.72%, 7.43% and 5.87%.

Respondent's Position:

[10] The Respondent provided a copy of the 2010 Assessment Request for Information. All of the leases shown on the Assessment Request for Information had expired. No further leasing information for the subject was provided.

[11] The Respondent provided reasons why he felt that the sales used by the Complainant; should not be used to derive a capitalization rate for the subject. The Respondent did not provide a capitalization rate study.

[12] It was the Respondent's position that the complainant was comparing the subject property; a "B" class building to a "C" class building.

Board's Reasons for Decision:

[13] The assessor had used a lower rate on the basement space than the rate used on the above grade space; \$8.00 for the basement space and \$15.00 for the above grade space. The complainant stated that the space could only achieve \$1.00 per square foot, and requested that a rate of \$3.00 be applied to that space. The Board found that insufficient evidence had been provided to quantify a reduction in the rate to be applied to the basement space.

[14] The Board found that of the three sales used in the Complainant's cap rate analysis only one was in the community of Sunalta. That sale was registered on title in January 2013, however the complainant argued that the "sale date" would have been in 2012.

[15] With respect to the equity issue the Board was aware that the assessor deemed the subject property to be a "B" class building while 1615 10 AV SW was deemed to be a "C" class building, however the Board found that 1615 10 AV SW., was indeed comparable to the subject property. It was located in the immediate vicinity of the subject property and physically similar to the subject. The Board found that equity could only be achieved between these two competing properties if a 5.75% cap rate was applied to the subject.

DATED AT THE CITY OF CALGARY THIS 20th DAY OF August, 2013.

R. Fegan

R. Fegan

Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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.*

CARB Identifier Codes

Decision No. CARB 72010-P			Roll No. 066094707	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Commercial	Office	Cap Rate	Rental Rate

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