

**Calgary Assessment Review Board****DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the Municipal Government Act, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***26 Avenue Holdings Ltd. (as represented by Assessment Advisory Group Inc.),  
COMPLAINANT***

and

***The City of Calgary, RESPONDENT***

before:

***J. Krysa, PRESIDING OFFICER  
D. Pollard, BOARD MEMBER  
Y. Nesry, BOARD MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>082042409</b>	<b>082043001</b>
<b>LOCATION ADDRESS:</b>	<b>3419 26 Ave SW</b>	<b>3403 26 Ave SW</b>
<b>FILE NUMBER:</b>	<b>72031</b>	<b>72032</b>
<b>ASSESSMENT:</b>	<b>\$1,310,000</b>	<b>\$727,000</b>

These complaints were heard on the 4<sup>th</sup> day of July, 2013, in Boardroom 10 of the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- D. Bowman

Appeared on behalf of the Respondent:

- R. Urban

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

[1] The complaints were heard consecutively by the Board. Both Parties requested that the arguments and submissions made during the hearing of the first complaint (File 72032), be considered by the Board in respect of the second complaint (File 72031) without further mention. The Board agrees to do so.

**Property Description:**

[2] The subject properties are two individually titled parcels of land, improved with B- quality retail developments with the following attributes:

Location (address):	3419 26 Ave SW	3403 26 Ave SW
Parcel size:	6,062 sq.ft.	3,818 sq.ft.
Assessed improvement area:	10,030 sq.ft.	2,815 sq.ft.
Year of construction:	1968	1968

[3] One of the commercial retail units (CRU) in the subject property located at 3419 26 Ave SW is occupied by a tenant eligible for a tax exemption pursuant to current legislation, and the Respondent's current total estimate of market value of \$2,129,348 has been adjusted in this regard resulting in a taxable assessment of \$1,310,000.

**Issues:**

[4] The issues of the complaints were identified as follows:

**Issue 1.** Should the properties be stratified as "B- quality" or "C quality" strip shopping centres?

**Issue 1a.** What are the correct market rent rates applicable to the appropriate stratification?

**Issue 2.** What is the appropriate capitalization rate to be applied to the subject properties' net operating incomes?

**Complainant's Requested Value(s):**

[5] Roll number:	082042409	082043001
Assessment (under complaint):	\$1,310,000	\$727,000
Requested assessment:	<b>\$1,000,000</b>	<b>\$580,000</b>

**Board's Decision:** The assessments are **confirmed** as follows:

[6] Roll number:	082042409	082043001
Assessment:	<b>\$1,310,000</b>	<b>\$727,000</b>

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

[7] The Complainant argues that although there have been no physical changes to the properties in the last year, the assessor has upgraded the subject properties' classifications from "C" quality to "B-" quality with a corresponding increase in assessed market rent rates, resulting in year over year assessment increases of 41% (Roll 082042409) and 46% (Roll 082043001). The Complainant further argues that this re-classification is unfair and inequitable as the assessor has not likewise re-classified other similar properties, and in some instances has downgraded the classification of similar properties located in the same market area.

[8] In support of the equity argument, the Complainant provided a summary of seven retail shopping centre properties located in the same community as the subject properties, illustrating that five of the seven properties have been downgraded from the previous year, and two of the properties have identical classifications to that assigned in the previous year.

[9] The Complainant submits that as a result of the subjects' higher re-classification, the market rents assigned to the subject properties are greater than the typical market rents the property is able to achieve, and greater than the subjects' actual rents in place.

[10] In support of the arguments, the Complainant presented a summary of the subjects' current leases, illustrating a range of lease rates from \$14.00 per sq.ft. to \$20.00 per sq.ft. in the subject property located at 3403 26 Ave SW; and a range of lease rates from \$14.00 per sq.ft. to \$16.00 per sq.ft. (gross rent) in the subject property located at 3419 26 Ave SW. The Complainant also included a copy of the 2013 ARFI response for the subject properties.

[11] For the subject property located at 3419 26 Ave SW, the Complainant prepared an income approach valuation, revising the assessor's market rent rates to \$14.00 per sq.ft. for the CRU's in the 1,000 to 2,500 sq.ft. stratum, and \$15.00 per sq.ft. for the office areas, and the CRU's in the 2,501 to 6,000 sq.ft. stratum, to arrive at an indicated market value of \$1,109,032.

[12] The Complainant did not prepare an income approach valuation for the subject property located at 3403 26 Ave SW.

**Respondent's Position:**

[13] The Respondent argues that the classification upgrade of the subject properties is justified and supported by recent sales within the development, and the resulting assessment is fair and equitable.

[14] In support of the re-classifications, the Respondent provided "RealNet" sales transaction summaries, Land Titles Certificates and transfer documents for 3 sales of properties adjacent to the subject properties, as well as the 2013 assessments for those properties to illustrate the following market values:

Address	Assessed Quality	Year of Construction	Sale Price	Assessment
3407 26 Ave SW	B-	1955	840,000	855,000
3413 26 Ave SW	B-	1955	360,000	369,500
3415 26 Ave SW	B-	1953	940,000	878,500

[15] In support of the market rent rates assigned to the subject properties, the Respondent provided the 2012 ARFI response for the subject property located at 3419 26 Ave SW, exhibiting contract rent rates ranging from \$20.82 to \$22.72 per sq.ft. for three of the CRU's, and a contract rent rate of \$16.00 per sq.ft. (gross rent), for the CRU leased to the exempt tenant. The Respondent further indicated that there are no other "B" quality retail properties within the subjects' community of Killarney, and provided ARFI and or rent roll documentation for four B- quality properties in the community of Rosscarrock in support of the assessed market rent rates assigned to B- retail properties.

**Legislative Authority:**

[16] Decisions of assessment review board

**467(1)** An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

**(2)** An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(7).

**(3)** An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a)** the valuation and other standards set out in the regulations,
- (b)** the procedures set out in the regulations, and
- (c)** the assessments of similar property or businesses in the same municipality.

**Matters Relating to Assessment and Taxation Regulation, AR 220/2004**

**2** 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.

**Board's Reasons for the Decision:**

[17] The Board finds that the subject properties are properly classified as "B-" quality, strip shopping centre properties. The Board was persuaded by the Respondent's evidence of recent sales that demonstrate the assessments of properties assessed as "B-" quality strip shopping centres are reasonable in relation to the sale prices of those properties.

[18] The Board further finds that the assessed market rent rates are appropriate for the subject properties. The Board was persuaded by the Respondent's ARFI evidence from one of the subject properties that supports the subjects' assessed market rent rates.

[19] The Board does not make a finding in respect of the appropriate capitalization rate for the subject properties, as there was insufficient market evidence from the Complainant to demonstrate that the assessed capitalization rate was inappropriate for the subject properties.

[20] In respect of the Complainant's argument regarding the of issue of fairness and equity, the Board was not provided with sufficient evidence to demonstrate the subject is inequitably assessed in relation to similar and competing properties. Notwithstanding the lack of evidence however, the Board shares the concern of the Complainant that only the properties within the subject development were apparently re-classified to "B-" quality as a result of the recent sales within the subject complex, and not other, similar "C" quality retail properties located within the same market area. Moreover, the Board notes that although the Respondent provided the documented criteria for "Quality Classification" at page 24 of R1, there was no evidence to demonstrate that any of the subject's characteristics had changed from the previous year.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF AUGUST, 2013.

  
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J. Krysa  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1 (72031)	Complainant's Disclosure
2. R1 (72031 and 72032)	Respondent's Disclosure
3. C1 (72032)	Complainant's 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**

<b>Subject</b>	<b>Property Type</b>	<b>Property Sub -Type</b>	<b>Issue</b>	<b>Sub - Issue</b>
CARB	Retail	Shopping Centre - Strip	Classification;	Market Rent