



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:

***1021 Land Corporation (as represented by Linnell Taylor Assessment Strategies),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
R. Roy, BOARD MEMBER
P. McKenna, 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:	067089706
LOCATION ADDRESS:	1021 – 10 AV SW
FILE NUMBER:	72045
ASSESSMENT:	\$15,510,000

This complaint was heard on 22nd day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *J. Mayer - Linnell Taylor Assessment Strategies*

Appeared on behalf of the Respondent:

- *L. Wong – Assessor – City of Calgary*

Regarding Brevity

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] At the commencement of the hearing the Respondent advised that he had not received a copy of the Agent Authorization form that should have been executed between the Complainant's firm and the owner of the subject. The form would specifically authorize Linnell Taylor Assessment Strategies to appear as the Complainant for the subject in this hearing. The Board noted that it did not have a copy of the form in its file either.

[3] The Complainant Mr. Mayer produced a copy of a letter prepared by the President of 1021 Land Corporation, authorizing Linnell Taylor Assessment Strategies to represent them in this hearing. The Board and the Respondent accepted this documentation and the hearing proceeded.

Property Description:

[4] The subject is a 1980 era four-storey 45,930 square foot (SF) office building in the Beltline 4 (BL4) district of downtown Calgary. The property has 91 underground parking spaces. The subject is assessed using the Income Approach to Value methodology, and using typical office rates of \$15 per SF and a capitalization rate (cap rate) of 5.25%. The subject is assessed at \$15,510,000.

Issue:

[5] What is the correct capitalization rate that should be applied in calculating the assessed value of the subject?

Complainant's Requested Value:

[6] The Complainant requested that the assessment be reduced to \$10,859,000 based on a 7.5% capitalization rate rather than the assessed 5.25%.

Board's Decision:

[7] The Board confirmed the assessment at \$15,510,000.

Legislative Authority, Requirements, and Considerations:

[8] Under the *Municipal Government Act* (MGA), the Board cannot alter an assessment which is fair and equitable.

[9] MGA 467 (3) states:

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the valuation and other standards set out in the regulations, the procedures set out in the regulations; and the assessments of similar property or businesses in the same municipality."

[10] The Board examines the assessment in light of the information used by the assessor and the additional information provided by the Complainant. The Complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities. If the original assessment fits within the range of reasonable assessments and the assessor has followed a fair process and applied the statutory standards and procedures, the Board will not alter the assessment. Within each case the Board may examine different legislative and related factors, depending on what the Complainant raises as concerns.

Positions of the Parties**(a) Complainant's Position:**

[11] The Complainant provided his Brief C-1 and identified the location of the subject in BL4. He noted that the area is populated with several commercial buildings. He argued that the City's assessment of the subject is erroneous because the assessor has used an incorrect cap

rate in his calculations of value. Therefore, he argued that on the basis of his analysis of four 2011 and one 2012 market sales of properties he considered comparable to the subject, the cap rate should be 7.5% instead of the assessed 5.25%.

[12] The Complainant provided a location map and matrices analysis of five "B" quality Beltline market sales of properties he considered comparable to each other and to the subject. He noted that the City has also used three of the five sales in its analysis, those being 1520 – 4 ST SW; 906 – 12 AV SW; and 1207 – 11 AV SW. The Complainant's critical data is consolidated and compared to the subject as follows:

<u>Address</u>	<u>Type</u>	<u>YOC</u>	<u>Bldg.Area</u>	<u>Sale price</u>	<u>Sale Date</u>	<u>NOI - 2012</u>	<u>Cap Rate</u>
1021 10 AV SW	Office/low rise (1-4st)	1980	45,931	subject	subject	subject	Assessed 5.25%
1111 11 AV SW	Office/high rise (5+st)	1979	47,080	\$9,300,000	Mar. 2011	Jul.1,2012 \$815,824	Derived 8.77%
525 11 AV SW	Office/high rise (5+st)	1979	44,727	\$8,300,000	Aug. 2011	Jul.1,2012 \$779,403	Derived 9.39%
1520 4 ST SW	Office/high rise (5+st)	1974	106,707	\$28,800,000	Dec. 2011	Jul.1,2012 \$1,812,376	Derived 6.29%
906 12 AV SW	Office/high rise (5+st)	1980	137,801	\$30,000,000	Dec. 2011	Jul.1,2012 \$2,306,708	Derived 7.69%
1207 11 AV SW	Office/high rise (5+st)	1980	83,880	\$29,850,000	Jan. 2012	Jul.1,2012 \$1,442,159	Derived 4.83%

[13] The Complainant clarified that:

"To derive the Cap Rates for assessment purposes, the Assessment 'Net Operating Income' estimates used to calculate the 2013 assessment of these Sales Comparables was divided into the actual sale price."

[14] The Complainant concluded that the average cap rate from the 5-part sample was 7.40%; the median was 7.69%; and his requested cap rate should therefore be 7.50%. He noted that he had included copies of the City's Property Assessment Detail Reports; RealNet information sheets; and Alberta Land Titles data sheets for each of his five property comparables.

[15] The Complainant provided a second Table wherein he displayed additional per square foot market sale valuation calculations for each of his five property comparables. He calculated that the per square foot market values of the five properties ranged from \$185.57 per SF to \$355.87 per SF – the average being \$245.32 per SF. He noted that the subject is assessed at

\$339.12 per SF. He argued that on the basis of his requested assessment of \$10,859,000 the per square foot value of the subject would be \$236.93. He concluded therefore that his several calculations indicate the subject is over-assessed.

[16] The Complainant requested that the assessment be reduced to \$10,859,000 based on a cap rate of 7.5% instead of the assessed 5.25%.

(b) Respondent's Position:

[17] The Respondent clarified and confirmed that he had used only three of the Complainant's five sales as outlined in paragraph [12] above. He argued that sales at 111 – 11 AV SW and 525 11 AV SW were not valid sales for assessment purposes since the first was considered to be a portfolio sale, and the second appeared to have marketing issues.

[18] The Respondent argued that while both he and the Complainant used primarily the same sales and arrived at different cap rate values, the difference is that the Complainant has used an invalid analysis methodology. He argued that it is critical when calculating cap rates that "time of sale" data be used, which is prudent and accepted Appraisal Practice, particularly for the legislated Mass Appraisal process used by the City.

[19] The Respondent noted that the Complainant clarified and confirmed that he used current income {Net Operating Income (NOI)} data from the City's current assessment records to calculate his cap rates. He argued that this is not only incorrect methodology, but the results of such analyses are flawed. Therefore, he argued, the Complainant's conclusion that a 7.5% cap rate is required to be applied to the subject, is also flawed.

[20] The Respondent provided the City's 2012 "Assessment Request for Information" (ARFI) document for the subject as prepared by the property manager and forwarded to the City. It identified a lease rate of \$15.50 per SF for 45,776 SF of space, and thereby confirmed the assessed rate of \$15 per SF.

[21] The Respondent provided market data/sales for five properties – three of which were identical to those provided by the Complainant. He also provided "Full Narrative Appraisal Reports" for two properties, one at 603/605 to 611-11 AV SW and the other at 809 – 10 AV SW. He argued that these properties are similar to the subject and the indicated Appraisal values support the assessment. He also provided RealNet information sheets, and Alberta Land Titles Land Transfer documents to support the sale particulars related to these five properties.

[22] The Respondent provided the 2012 assessment calculation sheet for the Complainant's property comparable at 525 – 11 AV SW, noting the assessed value was calculated to be \$14,570,000. He also provided for information purposes, the RealNet sheets detailing the *Post*

Facto 2013 sale of this same property for \$18,430,000. He suggested that this information supports the parameters – including the 5.25% cap rate - used by the City in its assessment calculations for comparable properties like the subject.

[23] The Respondent provided a matrix displaying the City's "2013 Beltline Office Capitalization Rate Study" to demonstrate his analysis of five "B" quality Beltline market sales – three of which were used by the Complainant. The information supporting the assessed 5.25% cap rate was in part as follows:

Address	Sale registration date	Sale Price (\$)	Sale year assessed area (SF)	Sale year Assessed NOI (\$)	Capitalization Rate (%)	Roll #
605 11 AV SW	2011/08/10	14,175,000	51,173	743,589	5.25	200112084
809 10 AV SW	2011/09/08	12,060,000	35,793	438,039	3.63	067091504
1520 4 ST SW	2011/12/01	28,800,000	106,707	1,637,086	5.68	201635919
906 12 AV SW	2011/12/29	30,000,000	137,801	1,957,775	6.53	067103507
1207 11 AV SW	2012/01/18	29,850,000	83,880	1,431,526	4.80	067110403
Median					5.25	
Average					5.18	

[24] The Respondent provided copies of Municipal Government Board Decisions DL019/10 and MGB 123/10 to confirm his arguments that the Complainant's methodology in analysis of his market sales is flawed. In Decision DL019/10 he quoted the Board as follows:

"The MGB has in several past decisions stated that a cap rate applied to NOI based on typical factors (inputs) must be a cap rate that also has been derived using typical NOI factors. In this case the MGB also finds that 2007 typical factors should be used when analyzing the 2007 sales and that 2008 typical factors should be used when analyzing the 2008 sales. The Appellant used typical 2008 factors for all sales and adjusted some typical rental rates in their cap rate analysis. The MGB finds the Appellant did not use 2007 typical factors for the 2007 sales in their cap rate analysis.

It is a well recognized principle in the appraisal/valuation of real property that an accurate determination of NOI is important to the derivation of an accurate cap rate. In calculating an accurate NOI, the rental rate is a significant factor. The MGB reviewed the Appellant's calculations/analysis of their requested cap rate at 7.25% and finds that the appropriate typical factors for the relevant sale year were not applied. Six of the seven sales are dated in 2007 and one is dated in 2008 but the Appellant used 2008 inputs in the analysis of all seven.

Several previous MGB decisions confirm the appropriateness of using sale year typical factors in determining cap rates. The Respondent has adhered to this accepted practice but the Appellant has not. Therefore the MGB prefers the Respondent's methodology and results to those of the Appellant."

[25] The Respondent requested that the assessment be confirmed at \$15,510,000.

Board's Reasons for Decision:

[26] The Board finds that the parties utilized the same three market sales to determine an appropriate cap rate for the subject. The Complainant however did not analyze these, or any of his five market sales, in accordance with accepted appraisal practice or previous Municipal Government Board decisions and directives.

[27] The Board finds that the Complainant used 2013 City assessment data inputs and parameters for analysis of his 2012 sales instead of 2012 data and parameters, a methodology which this Board and previous Boards has found to be flawed and unacceptable.

[28] The Board finds that the Respondent on the other hand, did analyze the same sales and two others, in accordance with accepted industry practice by using "time of sale" parameters to calculate his cap rates. This methodology coincides with accepted industry practice and previous Board directives.

[29] The Board finds therefore that it places little weight on the Complainant's analysis and his resultant request for a 7.50% cap rate for the subject.

[30] The Board prefers the evidence presented by the Respondent; the market sales utilized by the Respondent are valid market sales upon which he has relied to calculate the assessed cap rate. The Board is not convinced that two of the sales used by the Complainant – those at 1111 - 11 AV SW and 525 11 AV SW are valid market sales, given the challenges advanced by the Respondent regarding them.

[31] The Board finds that it accepts the Respondent's calculations leading to a 5.25% cap rate used in the assessment of the subject.

[32] The Board finds that the Complainant provided insufficient information to demonstrate that the assessment is either incorrect, inequitable, or unfair.

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


K. D. Kelly

Presiding Officer

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

NO.	ITEM
1. C-1	Complainant Disclosure
2. R-1	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.*

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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	commercial	Beltpine office	market value	Capitalization rate