



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:

MORPROP HOLDINGS ALBERTA LIMITED (as represented by AEC PROPERTY TAX SOLUTIONS), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Axworthy, PRESIDING OFFICER
J. Mathias, 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: See Appendix A

LOCATION ADDRESS: See Appendix A

FILE NUMBERS: 72195, 72223, 72224

ASSESSMENT: See Appendix A

These complaints were consolidated and heard together on the 28th day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- Brock Ryan (AEC Property Tax Solutions)
- Michael Oh (AEC Property Tax Solutions)

Appeared on behalf of the Respondent:

- Christina Neal (City of Calgary)

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

[1] The Respondent and the Complainant asked that File 72195, 72223 and 72224 be heard together as the evidence and argument were similar and rebuttal Exhibits C2-A and B applied to all three files. The Board agreed with this request.

[2] The Complainant stated that it objected to the Respondent's inclusion of 2013 ARFIs in the Respondent's evidence for the subject properties. The Complainant indicated that it did not object to the Board hearing this evidence, but asked that the Board either remove and/or place no weight on the following pages of the Respondent's submission in the determination of the 2013 assessments:

- File 72224: 7315 8 ST NE- Pages 27-32
- File 72195: 7326 10 ST NE- Pages 30-49
- File 72223: 7661 10 ST NE- Pages 23-37

[3] The Complainant stated that the 2013 ARFIs should not be used to defend the 2013 assessments of the subject properties as they applied to a future year assessment.

[4] The Board agrees with the Complainant that the 2013 ARFIs should not be a consideration and placed no weight on this material in its deliberations.

Legislative Authority, Requirements and Considerations:

[5] Under the Act, (Section 460.1(2) and 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 460.1 (1)(a).

[6] Both parties submitted background information and evidence in the form of photographs, aerials, site maps as well as extensive information on the issues at hand. In the interest of brevity, the Board will restrict its comments to those items the Board determines to be most relevant to these issues.

[7] The Board was presented with a number of previous decisions of Assessment Review Boards. While the Board respects the decisions made by those Boards, it is mindful that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence

presented to this Board. The Board will therefore give limited weight to those decisions, unless the issues and evidence are found to be timely, relevant and materially identical to the subject complaints.

Property Descriptions:

[8] **File # 72195: 7326 10 ST NE-** This property is improved with a 47,637 square foot (sf), three storey office building with 36 enclosed parking stalls and associated surface parking, known as Deerport Centre. The building was constructed in 1999 and is located on an assessable land area of 143,703 sf.

[9] **File # 72223: 7661 10 ST NE-** This property is improved with three, single storey office buildings and associated surface parking known as Centre 810, A, B and C, constructed in 1999 and 2000. The three buildings have a total area of 77,677 sf and are located on an assessable land area of 274,596 sf.

[10] There is a related assessment associated with the subject property representing 7,405 sf of the total office space. The related assessment is exempt from taxation and is not before the Board. The assessment of the exempt space is \$1,890,000 and the Board has no authority to alter it, regardless of the decision contained herein.

[11] **File # 72224: 7315 8 ST NE-** This property is improved with a 24,590 sf, two storey office building, basement and associated surface parking, constructed in 1999. The building is located on an assessable land area of 84,499 sf.

[12] All three properties are located in the DF2 economic zone; have a Subproperty Use code of CS0302 Suburban Office; are assigned an A+ quality rating; and are assessed using the Income Approach to Value.

Issues:

[13] Other matters and issues were raised in the complaint forms filed with the Assessment Review Board (ARB), on March 1, 2013; however, the only issues that the parties sought to have the Board address at the October 28, 2013 hearing are:

1. Do the three subject properties suffer from a "chronic", unusually high vacancy rate?
2. If so, should the assessments be reduced to recognize this "chronic vacancy"?

Complainant's Requested Values: See Appendix A

Board's Decision:

[14] The Board increased the vacancy rate for the subject properties from the assessed rate of 8% to 14%. The revised assessed values are provided in Appendix B.

Position of the Parties

Complainant's Position:

[15] The Complainant argued that the subject properties each suffer from an unusually high,

"chronic vacancy" rate that differentiates them from other office properties in the NE quadrant suburban office market.

[16] The Complainant stated that it agreed with the Respondent's vacancy study [R1 p. 60] and acknowledged that the three subject properties were included in the study.

[17] The Complainant stated that The City of Calgary (The City) no longer had a set policy regarding "chronic vacancy" and had recently been criticized by the Board for failing to have addressed this issue [C1 p.3].

[18] The Complainant offered its own definition of "chronic vacancy" as being a three year period of vacancy beyond a threshold of 10%, noting that this definition is used by the Edmonton ARB and reflects CARB decisions in recent years and the Complainant's own experience over 12 years of hearings.

[19] In support of its argument that the three properties suffer from "chronic vacancy" as so defined, the Complainant provided the following vacancy information for the subjects [C1-B pp.349-355]:

CARB Table 1: Subject's vacancy data and Complainant's vacancy requests

File #	Address	Vacancy rate per year			3 year average	Vacancy rate request	Exhibit references
		2010	2011	2012			
72195	7326 10 ST NE	36.96 %	39.65%	18.32%	32.20%	20%	C1-B pp. 349-355 C1-D p.570
72223	7661 10 ST NE	24.0%	24.1%	16.5%	21.56%	15%	C1-B pp. 344-348 C1-D p. 556
72224	7315 8 ST NE	100%	100%	100%	100%	30%	C1-B pp. 349-351 C1-D p. 565

[20] The Complainant requested that the vacancy rates for each of the properties be adjusted to the amounts highlighted in **Table 1**, stating that it believed that 30% was the maximum vacancy rate that had been allowed in recent CARB decisions and should be applied to the property that had experienced 100% vacancy over the past three years.

[21] The Complainant also provided owner Operating Statements in the applicable C1-B and C exhibits for each property, demonstrating the vacancy losses for each of the subjects.

[22] When asked under questioning to explain the reasons behind the higher vacancy rates experienced by the subject properties, the Complainant indicated that the Deerfoot Business Centre area had always been an "inferior node" as it is quasi-industrial in character, lacks nearby amenities and has some access constraints.

[23] Regarding the individual properties, the Complainant stated that 7315 8 ST NE had been purpose-built for a single tenant (Carma) who had moved out in 2009 and the property had been vacant ever since; Centre 810 was flex office space that was "choppy" in layout; and Deerport Centre had always been a "tough lease" as it did not have a lobby entrance and few amenities.

[24] The Complainant took issue with the Respondent's equity sales comparison of two properties [File# 72195, R-1 p. 241] stating that the properties had a different Subproperty code

(office/ warehouse) than the subjects.

Respondent's Position:

[25] The Respondent provided a vacancy study [R1 p.60] of 'A' quality suburban office in the NE quadrant of the city. The study included 25 properties and indicated an average vacancy rate of 6.93%. The assessed vacancy rate used is 8% [R1 p.60].

[26] The Respondent stated that The City does not allow for "chronic vacancy" in its assessment as it considers unusually high vacancies to be an effect, rather than a cause, which might be reflected in other income parameters, or the properties overall quality rating.

[27] The Respondent stated that the three subject properties had been included in its vacancy rate study and argued that it would be inequitable to the other suburban office 'A' quality properties in the NE quadrant to make adjustments to these properties. It stated that the vacancies experienced by these properties were simply an example of typical swings in the market and would correct themselves over time.

[28] In support of its argument, the Respondent referenced 2013 ARFIs for all three subjects showing that vacancy rates for all three properties had improved in 2013.

[29] The Respondent also provided equity sales information for two properties [File# 72195, R-1 p. 241] and compared the sale price of the two properties (\$206/sf) to the values requested by the Complainant (\$120, \$200 and \$207 per sf). The Respondent stated that the properties in question were office/warehouse and would be expected to command a lower per sf value than the three subjects, but did not.

[30] On questioning, the Respondent stated that vacancy is one parameter in the Income Approach to Valuation, not a factor of physical condition of a property at December 31.

Board's Reasons for Decision:

[31] In rendering its decision, the Board placed no weight on the 2013 ARFIs referenced by the Respondent as this information will be used to prepare the 2014 assessments. Further, it has no bearing on the vacancy as of the July 1, 2012 valuation date.

[32] The Board finds that the term "chronic vacancy" as defined by the Complainant (a three year period of vacancy over a threshold of 10%) is not defined in legislation, policy, or exhibited in practice, and finds that the Complainant's requested vacancy rate adjustments ranging from 15% to 30% are arbitrary amounts.

[33] The Canadian Oxford Dictionary, Second Edition, defines "chronic" as "persisting for a long time" or "habitual". In response to the Board's questioning, regarding possible reasons for the higher vacancy for the subject properties (see paragraphs [22] and [23]) the Board does not find the subject office buildings suffer from impediments such as functional obsolescence which could lead to persistent vacancy. Therefore, the Board does not support the Complainant's requested adjustments to assessed values to reflect "chronic vacancy" in the three subject properties.

[34] However, in analyzing the Respondent's vacancy report [R1 p. 60], the Board notes that

the properties in the portion of the DF2 economic zone north of 64 AV NE account for 56.72% of the total NE 'A' quality office space (87,925 sf of 155,009 sf total vacancy).

[35] The Board finds that the portion of the DF2 economic zone north of 64 AV NE (see Table 2), has a noticeably higher, typical vacancy rate at 13.65% when compared to the assessed suburban office vacancy rate for the NE quadrant of 8%.

CARB Table 2- Vacant 'A' Quality Office in the portion of DF2 N of 64 AV NE

Address	Submarket area	2013 Assessed Office Area (sf)	Vacant Office Area (sf)	Vacancy rate
6715 8 ST NE 6815 8 ST NE	DF2	333,476	43,916	13.17%
7315 8 ST NE	DF2	19,390	19,390	100.00%
7326 10 ST NE	DF2	45,691	11,743	25.70%
1120 68 AV NE	DF2	90,133	0	0
7575 8 ST NE	DF2	77,755	0	0
7661 10 ST NE	DF2	77,677	12,876	16.58%
Total		644,122	87,925	13.65%

[35] The Board finds that the typical vacancy rate for the three subject properties (highlighted) is 14% and reduces the assessments accordingly.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF November 2013.


M. Axworthy, Presiding Officer

APPENDIX "A"**Property particulars and Complainant's requested values:**

File #	Roll Number	Address	Assessment	Requested value on complaint form	Requested vacancy rate	Revised requested value
72195	009022104	7326 10 ST NE	\$12,780,000	\$9,040,000	20%	\$9,890,000
72223	201506052	7661 10 ST NE	\$18,030,000	\$14,350,000	15%	\$15,540,000
72224	009020900	7315 8 ST NE	\$5,120,000	\$2,470,000	30%	\$2,970,000

APPENDIX "B"**Board's decisions:**

File #	Roll Number	Address	Assessment	Board's decision	Revised Assessment
72195	009022104	7326 10 ST NE	\$12,780,000	Reduce	\$11,330,000
72223	201506052	7661 10 ST NE	\$18,030,000	Reduce	\$15,900,000
72224	009020900	7315 8 ST NE	\$5,120,000	Reduce	\$4,530,000

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

NO.	ITEM
1. C1- A,B,C,D	Complainant Disclosure
2. C2- A and B	Complainant Rebuttal
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.*

For Administrative Use Only

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB				