



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

ELPF 6807 Railway Street Inc.
(as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER
R. Cochrane, BOARD MEMBER
D. Morice, 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: 200676377
LOCATION ADDRESS: 6807 Railway St SE
FILE NUMBER: 72805
ASSESSMENT: \$46,070,000

This complaint was heard July 15 and 18, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- D. Chabot, Altus Group

Appeared on behalf of the Respondent:

- M. Ryan, City of Calgary Assessor
- L. Dunbar-Proctor, City of Calgary Assessor

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

[1] Procedural Matter One: The parties requested that Files 72988, 73137, and 72128 be heard concurrently as the evidence for rent rates is similar. File 72805 is cross-referenced for the rent rate. The Board agreed to cross-reference the evidence. The documentation and written decisions will contain similar evidence and reasoning because of this request.

[2] Procedural Matter Two: The Respondent asked that Rebuttal evidence be removed from the package as it contains new evidence. The Respondent said that the new evidence came from information provided by the City of Calgary after an MGB s299-300 request by the Complainant. He stated that the Complainant had the information in place but did not choose to use it in the evidence Disclosure, instead waiting until the Rebuttal to present it to the Board.

[3] The Complainant argued that the evidence in the Rebuttal package was in direct response to issues presented by the Respondent, and that this was the purpose of a Rebuttal. She denied waiting for the Rebuttal to present evidence, but used what she needed as a direct response to the Respondent.

[4] The Board decided to hear the Rebuttal evidence and place weight on it according to the Municipal Government Act (MGA) s495(1): *The Board is not bound by the rules of evidence or any other law applicable to court proceedings and has power to determine the admissibility, relevance and weight of any evidence.*

[5] Matters Relating to Assessment Complaints Regulation (MRAC) limits Rebuttals in MRAC 8(2)(c): *the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.*

[6] On review of the Rebuttal, the Board decided that the evidence presented by the Complainant was in direct response to specific parts of the Respondent's presentation, and used information from the Respondent's documents. The photographs were in response to the Respondent's use of specific comparables, and while the new photographs could have been considered as new evidence, this photographic evidence was not required for the final decision.

[7] The Board found no evidence that the Complainant had deliberately held back information in her possession to provide later as Rebuttal. The Respondent should have been well able to respond to the Rebuttal as it was delivered in time according to MRAC 8(2)(c) and the evidence was in direct response to arguments presented by the Respondent.

Property Description:

[8] The subject property has been assessed as 61,352 square foot (sf) and 81,532 sf "A+" class suburban lowrise offices on 9.10 acres (A) located in the East Fairview Industrial District.

Issues:

[9] Is the assessed lease rate of this lowrise office too high? Are the typical lease rates for this class of building calculated using valid comparable leases?

[10] Is the assessed area of the property correct?

Complainant's Requested Value: \$43,420,000.

Board's Decision:

[11] The Board reduces the assessment to \$43,420,000.

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) if the parcel is used for farming operations, agricultural use value.

Position of the Parties

Complainant's Position:

[12] The Complainant, D. Chabot stated that the Complainant and the Respondent had consulted prior to the hearing and agreed that the area of the subject buildings had been assessed incorrectly. The total size was reduced from 136,709 sf of office space and 6,173 sf of storage space to 135,081 sf (office) and 6,520 sf (storage). The reduction in size alone would result in a corrected assessment of \$45,560,000.

[13] The Complainant provided a rent rate study which showed 15 leases from "A+" class suburban offices in the SE quadrant of Calgary. The leases had been signed between August 2011 and June 2012, within the assessment period for floor areas ranging from 2,803 sf to 47,830 sf.

[14] The Median lease rate from this study was \$20.00/sf, the average lease rate was \$20.20/sf and the weighted average was \$19.46/sf.

[15] The Complainant requested a reduction in lease rate from \$21.00/sf to \$20.00/sf.

Respondent's Position:

[16] M. Ryan, City of Calgary Assessor, presented the City of Calgary 2013 Suburban Office Rental Analysis for "A+" buildings in the SE quadrant of Calgary. This study included all of the leases on the Complainant's list plus four additional leases. The mean rent rate which resulted from this analysis was \$20.91/sf, the median was \$22.00/sf and the weighted mean was \$20.51, resulting in an assessed rate of \$21.00/sf.

[17] The Respondent argued that the rent rate study provided by the Complainant did not include several properties which were available in the information provided through the MGA s299-300 request. Further, he argued that the Complainant's analysis could be used to support the \$21/sf typical value used by the City.

[18] The Respondent also presented Assessment Requests for Information (ARFIs) for the subject property which showed rent rates from \$8.00/sf to \$21.00/sf. He also provided ARFIs for the comparable properties in the rent rate analysis.

[19] M. Ryan argued that decreasing the rent rate for a property would have the counter effect of increasing the Capitalization (Cap) rate in order for the property to achieve the market value calculated from sales data. This would in turn decrease the typical Cap rate for the class of property. The Complainant provided Sales data for comparable properties which were used to calculate the typical Cap rate for "A+" suburban offices.

[20] The Respondent also provided a sale of a SE suburban office property which supported the rental and cap rate used by City of Calgary.

[21] M. Ryan also presented the post facto sale of a comparable lowrise suburban office in

SE Calgary on April 19, 2013 for \$22,611,300 to support the 2012 assessed value of \$20,760,000, using \$21/sf lease rate. The previous sale of this property was in 2009 (\$15,900,000).

Rebuttal:

[22] In Rebuttal, M. Chabot argued that the City of Calgary Suburban Office Rental Analysis was faulty because it included four properties which were not typical of the "A+" class of suburban offices.

- a) 4000 – 4 St SE includes free rent and rent abatement
- b) 815 – MacDonald Av SE is house with 2000 sf of office space attached
- c) 15 Sunpark Pz is retail space
- d) 7175 12 St. SE is part of a sale/lease back

[23] The Complainant argued that if the four non-typical suburban office leases are removed from the City's study, the corrected assessed rate would be \$20.00/sf. She also argued that a reduced Cap rate for one property to achieve the post facto Market Sale value would not change the average Cap rate significantly and the current Cap rate of 6.00% would still apply.

Board's Reasons for Decision:

[24] The Board accepted the agreed upon area of the buildings as 135,081 sf of office space and 6,520 sf of storage space.

[25] The Board considered the data presented by the Complainant and found that the adjusted Rent Rate analysis was more typical than the City analysis. The four properties that were excluded from the Complainant's study were not typical market leases, or were not typical of the class of properties.

[26] The Board found that excluding only the two properties which were clearly not lowrise suburban "A+" offices from the study would decrease the mean close to the \$20.00/sf rate.

[27] The Board considered the post facto sale of the subject property and decided that it demonstrated some growth in the market value from the assessment period to the sale date. Using the 2009 sale price of \$15,900,000 and the recent sale value of \$22,611,300, both the current assessed and the requested assessed values fall within the range of the two values.

[28] The Board reduces the 2012 assessment to a rate of \$20.00/sf.

DATED AT THE CITY OF CALGARY THIS 7th DAY OF October 2013.



Lana Yakimchuk

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.*

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Office	Low Rise	Income Approach	Lease Rates