



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:

***Snowcat Property Holdings Limited (as represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***M. Axworthy, PRESIDING OFFICER
H. Ang, BOARD MEMBER
A. Wong, 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 2014 Assessment Roll as follows:

ROLL NUMBER: 022156806

LOCATION ADDRESS: 521 54 AV NW

FILE NUMBER: 73964

ASSESSMENT: \$734,500

This complaint was heard on 25 day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *K. Fong, Agent*
- *A. Izard, Agent*

Appeared on behalf of the Respondent:

- *B. Thompson, Assessor*

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 3,100 square foot (SF) former bank building with 2,190 SF of CRU space and 910 SF of storage located in the community of Thorncliffe. The subject was constructed in 1977 and is classified as "B" quality, with a Subproperty use code of CM201 Retail-Freestanding and is vacant. It is assessed using the Income Approach to value with rental rates of \$2.00 to \$25.00 per SF, a vacancy rate of 9.00% and a cap rate of 6.50%.

Issues:

[3] While a number of issues were identified on the Complaint Form, the following issues were argued at the hearing:

- a) The property suffers from chronic vacancy and should receive a -25.00% vacancy allowance as compared to the assessed vacancy allowance of -9.00%.
- b) The assessed retail rate for CRU space 1,001 to 2,500 SF is too high and should be reduced from to \$25.00 per SF to \$21.00 per SF.

Complainant's Requested Value: \$409,000

Board's Decision:

- [4] The Board reduced the assessment to \$409,000.

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] The Board reviewed the evidence provided and will limit its comments to the relevant facts pertaining to this case and materials which led to the decision.

Issue #1: Does the subject suffer from chronic vacancy and if so, is a -25.00% vacancy allowance appropriate?**Position of the Parties****Complainant's Position:**

[7] The Complainant stated that the subject is an older, freestanding former bank building built in 1977. The Complainant stated that the building has been vacant for at least 7 years [C1, p. 33], making it "atypical" in this regard. Factors contributing to the chronic vacancy are the lack of parking and the fact that the property is exposed to and accessed from 54 AV NW and not 4 ST NW [C1, p. 20-24].

[8] The Complainant stated that this chronic vacancy had been recognized in previous CARB decisions on the subject, most recently in CARB 71430P-2013 where the Board had granted a vacancy allowance of -25.00%.

[9] The Complainant stated that while The City of Calgary (The City) no longer recognizes chronic vacancy, Calgary CARBs continue to recognize chronic vacancy in some cases. In support of its argument, the Complainant provided the Board with a copy of a number of CARB decisions on chronic vacancy for a number of properties [C1, pp. 65-130], attesting that 3 years of vacancy, among other factors, was the usual standard to determine when vacancy could be considered "chronic".

[10] The Complainant directed the Board's attention to a photograph that it had taken in May of 2013 showing a "For Lease" sign in the window, demonstrating that the property was being marketed, although the property had since been sold to Snowcat Properties (Sobeys) as part of their recent takeover of Canada Safeway. In response to questioning, the Complainant stated that to its knowledge, the property was still being marketed at "market rent" for the area.

Respondent's Position:

[11] The Respondent stated that as per Section 2 of Matters Relating to Assessment and Taxation (MRAT), The City used mass appraisal to determine a typical vacancy rate, and other typical parameters such as CRU rental rates, cap rate, and operating costs for various Subproperty types.

[12] The Respondent stated that it no longer recognized "chronic vacancy" and in response to questioning, stated that the SF vacancy of all properties within an applicable Subproperty type were included in The City's quadrant based vacancy analysis. Through this method, the 2014 vacancy rate for NW Freestanding-Retail was determined to be 9.00%, although a complete list of all the properties included in the vacancy analysis was not provided to the Board

[R1, p. 47].

[13] The Respondent stated that it had contacted the property leasing agent to view the property and to discuss current leasing activities, as during a site visit in June 2014 there was no "For Lease" sign in the window.

Board's Reasons for Decision:

[14] The Board finds that the subject has suffered from a longstanding (at least seven years) vacancy with evidence of attempts to lease the property, making it "atypical" when compared to its peers. The Board did not hear evidence from the Respondent as to how this issue had been recognized in the assessed value of the subject, other than a reference by the Respondent to quadrant based vacancy analysis (9.00% for the NW), with no supporting documentation.

[15] While the property has been 100% vacant for a number of years, a vacancy allowance of -25% seems reasonable and is in line with other recent CARB decisions.

Issue #2: Should the rental rate for the CRU space of 1,001 to 2,500 SF be reduced from \$25.00 per SF to \$21.00 per SF?

Position of the Parties

Complainant's Position:

[16] The Complainant provided a 2014 "B" Quality Rental Rate Analysis for CRU space of 1,001 to 2,500 SF in the North Central Market Zone comprising 56 leases signed between January 2011 May 2013, indicating a median per SF rental rate of \$23.00 [C1, pp. 26, 27].

[17] The Complainant extracted 20 leases from this North Central study that are within 4 km of the subject and produced a further analysis that calculated a median per SF rental rate of \$21.00 per SF. The Complainant stated that in its opinion this analysis, which includes two leases at 5602 4 ST NW, across the street from the subject, and signed in May and June of 2011 at \$18.00 and \$20.00 per SF, is the strongest indicator of value for the subject [C1, p. 28].

[18] In response to questioning, the Complainant acknowledged that the study includes properties in the NW and NE quadrants and includes properties in Strip Centres, as well as Freestanding Retail buildings and quality ratings of B- and B+.

[19] In defence of this approach, the Complainant stated that upon receiving The City's 2014 CRU 1001-2,500 SF NW Freestanding "B" rental rate analysis the Complainant determined that the sole property in the analysis was a restaurant property in Kensington and was not a retail property and should be disregarded. Therefore, it was unclear how the assessed rate of \$25.00 per SF for "B" quality Freestanding NW CRU space of 1,001 to 2,500 SF had been determined.

[20] The Complainant stated that the Respondent's 2014 CRU analysis for spaces of 1,001 to 2,500 SF [R1, pp. 39-46] was further flawed as very few leases (often only one) were included in a stratification category and the assessed rental rates were often widely divergent from the derived Median rental rates.

[21] The Complainant referred to the Respondent's Lease Comparables table [R1, p. 37] and noted that one of the comparables (11245 Valley Ridge DR NW), was a car wash and retail centre off Stoney Trail and questioned whether this was a good comparable due to its newer

construction but inferior location.

[22] The Complainant further stated that through a request for information under section 299 of the Act, it had identified at least 5 leases that had not been included in the NW "B" quality CRU 1,001- 2,500 SF study [C2, pp.37-46] and had these leases been included, the per SF rental rate would have been \$24.00 and not \$25.00 as currently assessed [C2, p. 47].

[23] In addressing the issue of mixing properties with different quality ratings, the Complainant stated that the property across the street at 5602 4 ST NW, with excellent exposure to 4 ST NW, had a lesser quality rating of B- than the subject which was classified as "B" quality. Further, in the absence of lease information for Freestanding "B" quality CRU space of 1,001 to 2,500 SF, it was reasonable to include leases for CRU space of 1,001 to 2,500 in properties from Strip Centres which are assessed at \$24.00 per SF and are in proximity to the subject.

Respondent's position

[24] The Respondent stated that CRU rental rates are stratified by size (SF), Subproperty type (e.g., Freestanding vs. Strip Centre, Neighbourhood Centre etc.), quality rating and quadrant of the city. The Respondent stated that because of this stratification, there were a limited number of current leases in some stratification categories.

[25] The Respondent stated that the Complainant's analysis [C1, p. 28] was flawed as it contained a mixture of Subproperty types, NE and NW properties and a mix of quality ratings.

[26] The Respondent provided its 2014 CRU analysis of CRU spaces from 1,001 to 2,500 SF for the NE and NW quadrants, noting that lease rates were lower in the NE than the NW where the subject is located [R1, pp. 39- 46]:

2014 CRU Leases (CRU 1,001-2500 SF)

Quality rating	NE rental rate per SF	NW rental rate per SF
B+	\$23.00(1 lease)	\$27.00 (2 leases)
B	\$21.00 (1 lease)	\$25.00 (1 lease) *
B-	\$20.00 (3 leases)	\$24.00 (1 lease)

* The Respondent acknowledged that the lease at 130 10 ST NW was in fact a restaurant and should not have been used in the study.

[27] In response to questioning about how the assessed rental rate had been established given that the median values and the assessed rates were often divergent, the Respondent stated that the assessed rates were based on retail hierarchy and assessor judgement.

Board's Reasons for Decision:

[28] In light of the issues raised by the Complainant about the Respondent's 2014 CRU 1,001-2,500 SF study (limited number of leases used in each stratification, complete absence of a NW "B" category lease and the divergence of assessed values from the study medians), the Board questions the validity of the \$25.00 per SF assessed rental rate applied to the subject.

[29] The Board finds that the Complainant's "B" quality CRU Rental Rate Analysis [C1, p. 28] is the best indicator of value for the subject.

[30] While the study does include leases from both Freestanding Retail and Strip Centres, the assessed rental rates of \$25.00 per SF for Freestanding Retail and \$24.00 per SF for Strip Centres are very comparable. In addition, the Complainant's analysis uses properties close to the subject (within a four kilometre radius) and includes a good sampling of 20 leases. While a mix of B quality ratings (B+, B and B-) are employed by the Complainant, the range of lease values is reasonable. In addition, the two leases next door to the subject at 5602 4 ST NW show current leases at \$18.00 and \$20.00 per SF.

[31] The Board reduces the rental rate for CRU space of 1,001- 2,500 in the subject to \$21.00 per SF.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF August 2014.

A handwritten signature in black ink, appearing to read "M. Axworthy", is written over a horizontal line.

M. Axworthy
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	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	Retail	Bank	Vacancy Rental rate	