



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:

Sun Life Assurance Company of Canada (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, D. Morice
Board Member, P. McKenna***

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: 094220308

LOCATION ADDRESS: 5251 - 48 Avenue SE

FILE NUMBER: 74323

ASSESSMENT: \$11,900,000

This complaint was heard on the 28th day of July, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *G. Langelaar, Agent, MNP LLP*
- *G. Worsley, Agent, MNP LLP*

Appeared on behalf of the Respondent:

- *J. Tran, Assessor, City of Calgary*
- *T. Nguyen, Assessor, City of Calgary*

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

- [1] There were no procedural or jurisdictional matters raised by either party.

Property Description:

(2) The subject is a multi bay warehouse property located in the Eastfield community of SE Calgary. The building has a total assessable area of 96,076 square feet (s.f.). The building was built in 2000. The interior finish ratio is 17 per cent. The land area is 5.42 acres. The land is designated I-G. Site coverage is 40.72 per cent.

Issues:

(3) The property is currently being assessed by the sales comparison approach. It is the Complainant's position that properties such as the subject are most often bought and sold for investment purposes and are therefore best valued by income capitalization. The current assessment reflects an overall rate per s.f. of \$123.86 The Complainant contends that that rate does not properly reflect market values.

Complainant's Requested Value: \$11,080,000 or \$11,330,000.

Board's Decision:

- (5) The assessment is reduced to \$11,330,000.

Legislative Authority, Requirements and Considerations:

- (6) This Board derives its authority from section 460.1(2) of the Act.

(7) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAT), states as follows;

*"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"

(8) Section 467(3) of the Act states;

*"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration
(c) the assessments of similar property or businesses in the same municipality."*

(9) For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.

(10) The Board notes that the assessment has increased from \$10,810,000 in 2013, to \$11,900,000 in 2014.

Position/Evidence of the Parties

(11) In support of the income calculations, the Complainant submitted a capitalization rate study that contained ten sales comparables that were analysed to derive a capitalization rate. The Complainant's conclusion from the analysis is that a rate of 7.00 per cent is appropriate. The Complainant also relied on third party reports to support the capitalization rate conclusion.

(12) The Complainant submitted ten comparables that were used to derive typical market rents. According to the Complainant, the rents used were typical rents applicable to the time of sale for each comparable. That assertion was not disputed by the Respondent.

(13) For the vacancy allowance, the Complainant relied on third party reports, and a single sale on Aero Drive that was used in support of the Complainant's adopted vacancy rate of 5.0 per cent. The Respondent objected to the use of the comparable, on the grounds that airport related property is not the same as typical warehouse space, and is treated differently in the marketplace. The Complainant did not disagree.

(14) The Complainant incorporated operating costs of \$3.00 per s.f. into the income capitalization calculations. These costs are unsupported in the evidence presented. The Complainant's non-recoverable allowance was based on "discussions with property owners, property managers and industry experts".

(15) The Complainant's \$11,080,000 request is based in the income capitalization calculations.

(16) The Complainant also submitted four comparable sales that reflect a median and average selling price of \$118 and \$116 per s.f.. From these, the Complainant adopted \$118 per s.f. to arrive at the alternate request of \$11,330,000.

(17) In response to the capitalization rate study, the Respondent pointed out that three of the sales used by the Complainant were invalid for various reasons. The Complainant did not dispute the assertions made in reference to the three sales. If these are excluded from the analysis, the capitalization rate reduces to 6.65 per cent.

(18) The Respondent submitted six industrial sales in support of the assessment. The six reflected Time Adjusted Selling Prices (TASP) ranging from \$103.54 to \$165.97 per s.f. All except one contained interior finish ratios somewhat similar to the subject. The single exception

had interior finishing of 67 per cent. The board does not consider this building to be comparable to the subject. Exclusion of this building results in a median selling price of \$115 per s.f.

Findings and Reasons for Decision:

(19) The Board finds that there are too many unsupported inputs in the Complainant's income approach calculations. The lack of adequate support for the vacancy rate, operating costs, and the change in the capitalization rate casts sufficient doubt on the capitalization results to render the results as unreliable.

(20) The Complainant presented cogent sales evidence to bring the Respondents assessment conclusion into question. Moreover, with the exception of one property, the Respondent's comparables provide a measure of support to the Complainant's position.

(21) The onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide convincing evidence to justify a change in the assessment. In the assessment complaint process, every opportunity is provided to both parties to present evidence and arguments in support of their positions.

(22) Once the Complainant has provided sufficient evidence and argument to cast doubt on the existing assessment, the onus shifts to the Respondent to prove that the assessment is correct. The Board finds that the Complainant has provided sufficient evidence and argument to shift the burden to the Respondent, and the Respondent has failed to adequately support the existing assessment.

DATED AT THE CITY OF CALGARY THIS

3

DAY OF September, 2014.

Presiding Officer



Jerry Zezulka

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1.	C1 Complainant Submission
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.

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Decision No. CARB 74323P/2014			Roll No. 094220308	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial warehouse	Market Value	Sales comparison v. Income Capitalization	Sales comparables