



**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:**

***Royal Oak Prime Funds Inc.,  
(as represented by: MNP LLP.),***

**COMPLAINANT**

**and**

***The City of Calgary,  
RESPONDENT***

**before:**

***W. Krynski,   PRESIDING OFFICER  
P. McKenna,   BOARD MEMBER  
R. Deschaine,   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:

<b>ROLL NUMBER:</b>	<b>201583705</b>
<b>LOCATION ADDRESS:</b>	<b>25 Royal Vista Place NW</b>
<b>FILE NUMBER:</b>	<b>74834</b>
<b>ASSESSMENT:</b>	<b>27,130,000</b>

This complaint was heard on 16<sup>th</sup> day of July, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #10.

Appeared on behalf of the Complainant:

- *W. Vanbruggen - Agent MNPLLP*

Appeared on behalf of the Respondent:

- *T. Neal – Assessor, City of Calgary*
- *S. Bazin - Assessor, City of Calgary*

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

[1] Neither party objected to the composition of the Board, as introduced at the outset of the Hearing.

[2] At the outset of the Hearing, both parties requested that the Capitalization Rate issue, which is germane to the subject Complaint, be cross-referenced with Complaint #74887.

#### **Property Description:**

[3] The Subject Property consists of a 4.26 acre parcel of land zoned "Industrial - Business", located in the Community of Royal Vista. The parcel is improved with a three-storey suburban office building with main floor retail, totalling 57,390 square feet (sf.) of net rentable area. The quality class is A+. The second building is a single storey retail structure totalling 8,076 sf. of net rentable area, and is assigned an A quality class. The buildings are new, having been constructed in 2013.

#### **Issues:**

[4] The Complainant addressed the following issues:

- 1) The subject property is assessed on the Income Valuation Approach. The Complainant contends that the Capitalization Rate (cap. rate) applied by the Assessor is incorrect, thereby resulting in an erroneous assessment.
- 2) The Complainant has requested a decrease in the office shell rental rate, from \$24.00 psf. to \$19.00 psf. for the unfinished 15,921 sf., and a decrease in the retail shell rental rate from \$27.00 psf. to \$18.50 psf. for the unfinished 3,136 sf. of retail space.

**Complainant's Requested Value:** 22,070,000 or 23,580,000

#### **Board's Decision:**

[5] For the reasons outlined herein, the Board reduces the assessment to 25,160,000.

**Legislative Authority, Requirements and Considerations:**

[6] The Calgary Composite Assessment Review Board takes authority from the Act and associated Regulations.

**Issue 1: Capitalization Rate****Complainant's Position:**

[7] The Complainant's evidence and disclosure document was presented and labelled Exhibit C1 (421 pgs.). For the purposes of the cap. rate issue, document references, including page numbers, relate to those submitted by both parties, for the lead file (#74887). In respect of the cap. rate that is applied in the Income Approach valuation, the Complainant contends that the correct cap. rate should not be 6%, but rather 6.75%, while all other income coefficients are deemed to be correct.

[8] Various maps, aerials and photographs were provided, to offer a visualization of the location and building characteristics of the subject Property.

[9] The Complainant referenced "MNP's Suburban Capitalization Rate Study" [C1; Pg.21], consisting of six office property transactions that occurred between July 2012 and May 2013. The Study revealed derived cap. rates ranging from 6.23% to 7.27%, with average and median values of 6.74% and 6.78% respectively. The Complainant reasoned that based on the foregoing results, a cap. rate of 6.75% is in order.

[10] The Complainant further noted that 4 of the 6 sales in the MNP study are also utilized by the City in their analysis. The main reason for the differing results is that the MNP analysis utilized a \$14.00 typical rent in calculating the typical net operating incomes (NOI's) in the sale analysis, whereas the City employed a \$13.00 typical rental rate in determining their NOI's.

[11] The Complainant further explained that, within the cap. rate analysis process, the City's methodology of determining typical NOI's is to employ income parameters from the previous calendar year (January to December). The MNP methodology differs in that, for the same sale, MNP employs data from the previous assessment year (July to July). The Complainant reasons that the MNP methodology uses more current data, thereby producing a more accurate result.

[12] Finally, in Rebuttal Document [C2; 39 Pgs.), the Complainant references a number of Assessment to Sale Ratio (ASR) charts, wherein various scenarios are provided utilizing variations of MNP and City sales, both with and without time adjustments to the sales.

**Respondent's Position:**

[13] The Respondent submitted evidentiary documentation, which was labelled Exhibit R1 (380 pgs.). Various maps, aerials and photographs were provided, to offer a visualization of the location and building characteristics of the subject Property.

[14] The Respondent provided a detailed explanation of the subject assessment [R1; p. 9].

[15] In support of the applied 6% cap. rate, the Respondent referenced the City's "2014 Suburban Office Capitalization Rate Study - A Quality" [R1; pg.27]. Five Suburban office sales were analysed with sale dates ranging from July 2012 to May 2013, and typical cap. rates ranging from 5.70% to 6.20%. The Respondent reasoned that the results readily supported the assessed 6% cap. rate.

[16] Four of the five sales were included in the MNP Study. The sale at 14505 Bannister Rd. SE was not included in the MNP Study, as it was deemed by MNP to be a portfolio transaction. The Respondent explained that the sale was included in the City Analyses, as discussions with the purchaser (Dundee REIT) confirmed that the sale price was negotiated on individual property merits, exclusive of the portfolio nature of the sale, and was therefore considered an arms-length transaction.

[17] The Respondent provided a Response to the Complainant's Capitalization Rate Study [R1; Pgs. 29-31], wherein a number of contended errors in the MNP study are presented. Of particular mention was a capital expense of \$1,200,000 for roof replacement that the Respondent argued should have been factored into the sale price of Sale #1 (1020 68 Ave. NE). Additionally, Sale #5 at 808 55 Ave. NE, in the Respondent's opinion, should be excluded from the MNP Study, as it involved a vesting order which translated into a Vendor Take-back mortgage two months following the sale, rendering the sale a non arms-length transaction.

[18] Additionally, the Respondent referenced an ASR analysis and Sale Price Trend Line provided to test the City's cap. rate accuracy [R1; Pg. 32-33]. Testing the ASR results for the five sales, without time adjustments to the sale prices, yielded mean and median ASR's of 1.04. With time adjustment to the sale prices (+1.5% per Month), mean and median ASR's were shown to be 0.96. Either way, the Respondent notes, the 6.0% cap. rate applied, produces an accurate assessment.

[19] In further support of the assessed 6% cap. rate, the Respondent referenced the Colliers Q3, 2013 Suburban Office Capitalization Rate Report [R1; Pg.192], indicating cap. rates for A class suburban office properties in Calgary, ranging from 5.50% to 5.75%. A similar report from CBRE [R1; Pg. 189], reports a cap. rate range of 5.75% to 6.25% for the same time period. The Respondent reasons that this data, although third party information, provides an industry perspective, that supports the assessed rate.

#### **Board's Reasons for Decision:**

[20] There was insufficient market evidence from the Complainant to convince the Board that a variance to the capitalization rate is justified.

[21] Considerable evidence and argument was provided by both parties, as to each other's perceptions regarding correct methodology for calculating capitalization rates. While the cap. rate is an integral component of the income approach valuation process, it is, nevertheless, a single component among the various employed in the income capitalization function.

[22] Whether a Complainant disputes the accuracy of a single component of a valuation process (ie. Cap. Rate within the Income Approach), or the entire process itself for that matter, the onus is on the Complainant to prove that their request results in a value that is a) more equitable, and/or b) reflective of a more accurate market value, than the original assessment.

[23] The Board gave consideration to the various Assessment to Sales Ratio studies provided by both parties. ASR studies can provide a valuable insight into the "value to market" relationships for groups of properties, but the Board was confounded by the vastly differing time adjustment results advanced by either party. The MNP study suggests negative time adjustments (ie. Declining market) to adjust sale prices to the valuation date of July 1, 2013, while the City study contemplates positive time adjustments (increasing market) for the same time frame. The Board finds little credibility in the time adjustment analyses from either party, perhaps due to the limited size of data sets used.

[24] The test of assessment accuracy for income producing properties, comes not in the testing of individual components, but rather through the relationship between the final assessed value, (resulting from the composite interaction of all the components), and the market place, ie. sales.

[25] The test for accuracy in support of the Complainant's requested value, were various versions of ASR analyses, which, based on questionable time adjustments, renders them to be of limited value.

[26] The Board found some merit in the Respondent's critique of the MNP Capitalization Rate Study, wherein a number of perceived errors in the data and analysis was revealed.

[27] The Board gave consideration to the two most current sales, each indicating cap. rates of 6.09%, and which give support to the 6% assessed rate.

[28] Having considered the evidence and argument as presented by both parties, the Board does not find the Complainant's evidence sufficiently compelling to warrant a variance in the capitalization rate.

## **Issue 2: Shell Space**

### **Complainant's Position:**

[29] The Complainant contends that 15, 921 sf. of office space was simply base building, and did not have any tenant improvements as of the legislated December 31, 2013 condition date. Similarly, 3,136 sf. of retail space remained in an unfinished state as of the condition date.

[30] In support of the requested adjustment, the Complainant referenced two charts [C1; Pgs. 23 & 24], summarizing the costs for tenant improvements incurred by the property owner, for both office and retail space types. The averages were shown to be \$47.59 psf. for office and \$92.40 psf. for the retail space. In support, a summary of building permits was referenced in the ensuing pages.

[31] In the summary, the Complainant submits that their analysis suggests an assessed office shell space of \$19.00 psf. and retail shell space of \$18.50 psf.

[32] Photos were provided in support of the unfinished condition of the referenced spaces. [C1; Pgs. 11-12].

### **Respondent's Position:**

[33] The Respondent referenced their evidence package labelled Exhibit R1 (380 Pgs.). Various maps and photographs were provided to offer a visualization of the location and building characteristics of the subject Property.

[34] The Respondent indicated mutual agreement with the Complainant for the office shell rate of \$19.00 psf., however disagreed with the Complainant's requested \$18.50 psf. retail shell space rate.

[35] In support of the City's position, the Respondent referenced the recent Assessment Request for Information (ARFI) document submitted by the property owner [R1; Pgs. 26-33]. The ARFI indicates negotiated tenant improvement allowances in the area of \$20.00 psf. The Respondent argued that the typical \$20.00 allowance, divided by the average 10 yr. lease span, indicates an adjustment of -\$2.00 psf. is warranted.

[36] Based on the foregoing, the Respondent is recommending an adjusted assessment of 25,160,000.

**Board Reasons for Decision:**

[37] The Board reviewed the evidence presented, and is persuaded by the Respondent's evidence, that the appropriate rates for the unfinished shell space should be \$19.00 psf. for the office space and \$25.00 psf. for the retail space. Overall, the Board found that the Respondent's evidence more accurately reflects typical market conditions and the subject ARFI reflected a tenant improvement allowance negotiated by both the landlord and the tenant of the subject property.

[38] On review and consideration of the evidence before it in these issues, the Board finds that, with respect to:

- **Issue 1: Capitalization Rate:** There was insufficient evidence to vary the assessment.
- **Issue 2: Shell Space:** Adjustments are made per the Board's Decision.

[39] The assessment is reduced to 25,160,000.

DATED AT THE CITY OF CALGARY THIS 26<sup>th</sup> DAY OF August 2014.



Walter F. Krynski

Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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**

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Commercial	Suburban Office & Retail	Capitalization Rate / Shell Space Rate	