

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:

Airstate Ltd.
(as represented by: MNP LLP.),

COMPLAINANT

and

The City of Calgary,
RESPONDENT

before:

| | |
|-----------------------------|--------------------------|
| <i>W. Krynski,</i> | PRESIDING OFFICER |
| <i>P. McKenna,</i> | BOARD MEMBER |
| <i>R. Deschaine,</i> | 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: | 054008701 |
| LOCATION ADDRESS: | 2912 Memorial Drive, SE |
| FILE NUMBER: | 74849 |
| ASSESSMENT: | \$9,780,000 |

This complaint was heard on 17th 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. Van Bruggen - Agent MNPLLP*

Appeared on behalf of the Respondent:

- *T. Neal – 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, the Complainant requested that the Capitalization Rate issue be cross-referenced to Complaint #74872, and that the vacancy issue of this complaint be cross-referenced with Complaint # 74862. The Respondent was in agreement, and the Board consented to the requests.

Property Description:

[3] The Subject Property, known as the Intergraph Building, consists of a 2.45 acre parcel of land, zoned "Commercial-Office", located in the Franklin Community. The parcel is improved with a 68,943 square foot (sf.) suburban office building. The building was constructed in 1979 and is classified as "B" quality office.

Issues:

Issue 1: Capitalization Rate

[4] The subject property is assessed on the Income Approach to value. The Complainant contends that the Capitalization Rate (cap. rate) applied by the Assessor is incorrect, thereby resulting in an erroneous assessment.

Issue 2: Vacancy rate

[5] The Complainant is requesting a change in the vacancy rate, to reflect atypical vacancy within the subject property.

Complainant's Requested Value: \$7,390,000 or \$8,560,000 [C1; Pg. 6].

Board's Decision:

[6] For the reasons outlined herein, the Board confirms the assessment at \$9,780,000.

Legislative Authority, Requirements and Considerations:

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

Complainant's Position:

[8] The Complainant's evidence and disclosure documents were presented and labelled Exhibit C1 (320 pgs.) and C2 (91 Pgs.).

[9] The Complainant takes issue with the cap. rate that is applied in the Income Approach valuation, arguing that the correct cap. rate should be 8%, rather than the assessed 7.00%. All other income coefficients are considered to be correct. Additionally, the Complainant cross-references to Complaint #74872, all evidence and argument respecting the cap. rate issue. Accordingly, all references on this issue to Exhibits, Documents and page numbers are to those submitted at Hearing #74872.

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

[11] The Complainant referenced "MNP's Suburban Capitalization Rate Study" [C1; Pg.22], consisting of three office property transactions that occurred between July 2012 and January 2013. (Note: A corrected page 22 was submitted at the Hearing, and is referenced as Exhibit 1. Also, a corrected page 208 was submitted, and is referenced as Exhibit 2). The Study revealed derived cap. rates ranging from 7.45% to 8.78%, with average and median values of 8.00% and 7.77% respectively. The Complainant argued that based on the foregoing results, a cap. rate of 8.00% is in order.

[12] The Complainant further noted that the City in their analysis also utilizes the three sales in the MNP study. The main reason for the differing results is that the MNP analysis differs in the manner in which typical rents are to be determined.

[13] 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 next assessment period (July to July). The Complainant reasoned that the MNP methodology uses more current data, thereby producing a more accurate result.

[14] Additionally, the Complainant critiqued the Respondent's cap. rate analysis, arguing that, six of the nine sale transactions in the City analysis are considered by the Complainant to be either non arms-length, or dissimilar, such that they must be excluded.

[15] Finally, in Rebuttal Document [C2; 91 Pgs.), the Complainant referenced 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:

[16] The Respondent submitted evidentiary documentation, which was labelled Exhibit R1 (318 pgs.). Various maps, aerials and photographs were provided, offering a visualization of the location and building characteristics of the subject property.

[17] The Respondent provided a detailed explanation of the subject assessment [R1; p. 10]. Like the Complainant, the Respondent also cross-references Complaint #74872, respecting evidence and argument.

[18] In support of the applied 7% cap. rate the Respondent provided the City's "2014 Suburban Office Capitalization Rate Study - B, C and D Quality" [R1; pg.30]. While nine suburban office sales were initially considered, only four were employed in the analysis, with sale dates ranging from July 2012 to March 2013, and typical cap. rates ranging from 5.83% to

7.28%. The Respondent argued that the results readily supported the assessed 7.00% cap. rate.

[19] Three of the four sales were included in the MNP Study. The sale at 7 Glenbrooke Place SW was not included in the MNP Study, as it was claimed by MNP to be partially owner-occupied and should therefore be excluded. The Respondent rebutted that MNP's reasoning for excluding the sale was without substance, and furthermore, two of the Complainant's own sales also reflected owner-occupied buildings.

[20] The Respondent provided a Response to the Complainant's Capitalization Rate Study [R1; Pgs. 32-33], wherein a number of contended flaws in the MNP study were disclosed.

[21] Additionally, the Respondent referenced ASR results for the Complainant's four sales, using the requested 8% cap. rate with a time adjustment [R1; Pg. 34]. The resulting Mean and Median ASR's of 0.86 and 0.89 respectively, in the Respondent's opinion, produce below market assessments.

[22] Additionally, the Respondent referenced an ASR analysis provided to test the City's cap. rate accuracy [R1; Pg. 34-35]. Testing the ASR results for the four sales, without time adjustments to the sale prices, yielded mean and median ASR's of 0.99 and 1.02. With time adjustment to the sale prices (+.34% per Month), mean and median ASR's were shown to be 0.97 and 0.99. Either way, the Respondent noted that the assessed 7.00% cap. rate produces an accurate assessment.

[23] In further support of the assessed 7% cap. rate, the Respondent referenced the Colliers Q3, 2013 Canada Capitalization Rate Report [R1; Pg.133], indicating cap. rates for B class suburban office properties in Calgary, ranging from 6.25% to 7.00%. The Respondent argues that this data, although third party information, provides an industry perspective that supports the assessed rate.

Board's Reasons for Decision:

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

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

[26] The Board gave consideration to the various Assessment to Sales Ratio Studies provided by both parties. ASR studies can provide some measure of the "value to market" relationships for groups of properties. Overall, the Board found the Respondent's evidence to be more persuasive, specifically, the mean and median ASR's of 0.97 and 0.99.

[27] The Board found some merit in the Respondent's critique of the MNP Capitalization Rate Study, wherein a number of perceived flaws in the data and analysis were indicated.

[28] The Board gave consideration to the two most current sales, indicating cap. rates of 7.28% and 5.83%, which tend more to support a 7.00% versus 8.00% cap.rate.

[29] Having considered the evidence and argument as presented, the Board does not find the Complainant's evidence sufficiently compelling to warrant a change to the capitalization rate.

Issue 2: Vacancy rate

Complainant's Position:

[30] Due to the loss of a lead tenant, the property is allegedly suffering from a higher than normal vacancy. It is argued that an atypical vacancy rate of 14% should therefore be applied, versus the assessed 9%.

[31] An Assessment Request for Information (ARFI) was presented [C1; Pgs. 18-22]. The total vacancy in the building is 27,809 sf. or 43.2%.

[32] Based on a typical suburban office vacancy rate of 14% in the NE Sector, the Complainant contends that the subject property's situation of having recently lost a major tenant is exacerbated by high vacancies in competing buildings. An additional 5% for atypical vacancy is argued as being reasonable.

[33] Two previous CARB decisions were referenced [C1; Pg. 17] wherein an allowance was made for atypical vacancy.

Respondent's Position:

[34] The Respondent submitted their evidence package labelled Exhibit R1 (318 Pgs.).

[35] The Respondent referenced their "2014 Suburban Office Vacancy study: Northeast" [R1; Pg. 27]. An analysis consisting of 41 north-east "B & C" class offices was provided, indicating a typical vacancy rate of 13.73%, rounded up to 14%, which was applied consistently to all B and C class office properties in the north-east quadrant.

[36] In support of the City's valuation process, the Respondent referenced the International Association of Assessing Officers publication "Glossary for Property Appraisal and Assessment - Second Edition", [R1;pg. 32] which states:

"Vacancy and Collection Loss

The amount of money deducted from potential annual gross income to reflect the effect of probable vacancy and turnover And it should be based on market research, not actual rental history of the property".

[37] Further to this, the Respondent referenced "The Alberta Assessors Association Valuation Guide - Office Buildings" [R1; Pg. 37], which states:

"Determining Effective Gross Income

The vacancy rate in office buildings tends to fluctuate with supply and demand Since vacancy rates are cyclical and the objective of the assessment process is to establish the typical real estate value, typical, long term vacancy rates should be applied in the assessment of office buildings."

Board's Reasons for Decision:

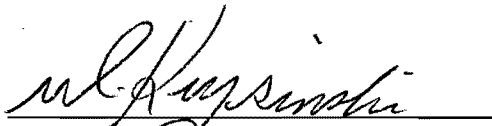
[38] The Board is reluctant to reduce the assessment of the subject property based on

atypical vacancy caused solely by the exodus of a single large tenant. Turnover in tenancies is a naturally occurring event. If the Complainant were able to identify a physical inadequacy of the property, such that market-level rents or vacancies could not be attained over a period of time, then an adjustment could be warranted. In the absence, however, of any such evidence, the Board has limited options. Furthermore, the Board is in agreement with the Respondent, that all offices in the north-east compete in a similar market. Consideration has been given to the sufficiently large data set of the Complainant's office vacancy rate analysis for the north-east quadrant.

[39] The Board did not find the evidence sufficiently compelling to warrant an adjustment to the vacancy rate.

[40] The assessment is confirmed at \$9,780,000.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF September 2014.



Walter F. Krynski

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

| Appeal Type | Property Type | Property Sub-Type | Issue | Sub-Issue |
|--------------------|----------------------|--------------------------|----------------------------------|------------------|
| CARB | Commercial | Suburban Office | Capitalization Rate/Vacancy Rate | |