



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:

<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:	009004482 & 009004193
LOCATION ADDRESS:	6815 & 6715 8 Street NE
FILE NUMBER:	74862 & 74863
ASSESSMENT:	42,100,000 & 40,490,000

This complaint was heard on 14th 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*
- *G. Worsely - Agent MNPLLP*

Appeared on behalf of the Respondent:

- *T. Neal – Assessor, City of Calgary*
- *R. Tharakan - 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] The Complainant requested that Complaints # 74862 and #74863 be heard simultaneously, as the issues and evidence for both are the same.
- [3] At the outset of the Hearing, both parties requested that the Capitalization Rate issue, which is germane to the subject Complaint, be cross-referenced to Complaint #74887.

Property Description:

- [4] The Subject Properties known as Deerfoot Atrium South, consist of 4.24 and 5.50 acre parcels of land zoned "Industrial - Business", located in the Deerfoot Business Centre. The parcels are improved with Identical 161,126 square foot (sf.) and 162,312 (sf.) "A" quality suburban office buildings, constructed in 1980 and 1981.

Issues:

- [5] 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 contends that the assessed vacancy rate of 9% is incorrect. Due to the loss of a lead tenant, the properties are suffering from higher than normal vacancy, and should receive a further +5% adjustment, for an atypical vacancy rate of 14%.

Complainant's Requested Value: 33,800,000 and 32,350,000

Board's Decision:

- [6] For the reasons outlined herein, the Board confirms the assessments at 42,100,000 and 40,490,000.

Legislative Authority, Requirements and Considerations:

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

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

[8] The Complainant's evidence and disclosure document was presented and labelled Exhibit C1 (342 pgs.). For the purposes of the capitalization rate issue, document references herein, including page numbers, relate to those submitted by both parties, at the July 14, 2013 Hearing for the lead file (#74887). It is the Complainant's contention that the 6% cap. rate applied in the subject property's income approach calculation is incorrect, and that the appropriate cap. rate is 6.75%, while all other income coefficients are deemed to be correct.

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

[10] 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.

[11] 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.

[12] 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.

[13] 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:

[14] 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.

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

[16] 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.

[17] 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.

[18] 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 for 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 non arms-length.

[19] 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.

[20] 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:

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

[22] 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.

[23] 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.

[24] 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.

[25] 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.

[26] 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.

[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 was revealed.

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

[29] 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: 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] A summary chart of vacant spaces in the subject buildings was presented [C1; Pg. 26]. The total vacancy in both buildings is 94,083 sf. or 29%.

[32] Two previous CARB decisions (1424/2010 & 1339/2012) were referenced [C1; Pg. 27], wherein an allowance was made for atypical vacancy.

[33] A further analysis titled "A Class Vacancy Rate in the NE" was presented [C1; Pg. 30]. In this analysis, 9 office properties in Deerfoot Business Park were analysed separately from 18 other office properties in various north-east locations. The indicated vacancy rate for Deerfoot Industrial Park was 18.93%, while the remainder of the NE office market was 4.48%. All of the NE office market combined, (including Deerfoot) reflected 8.67%, similar to the City's "A" Office vacancy rate.

Respondent's Position:

[34] The Respondent submitted their evidence package labelled Exhibit R1 (420 Pgs.).

[35] The Respondent further referenced their "2014 Suburban Office Vacancy study: Northeast" [R1; Pg. 48]. An analysis consisting of 28 north-east "A" class offices was provided, indicating a typical vacancy rate of 8.53%, rounded up to 9%, which was applied consistently to all "A" 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. 52] 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. 53], 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."

[38] Finally, the Respondent reflected on the 2013 Board Decision "71072P-2013, [R1; Pgs.235-239], respecting the subject properties, wherein the Board denied a similar request for atypical vacancy.

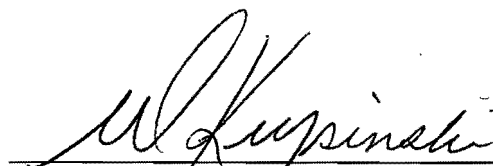
Board's Reasons for Decision:

[39] The Board is reluctant to reduce the assessment of the subject properties, based on atypical vacancy caused by the exodus of a single large tenant. If the Complainant were able to identify a physical inadequacy of the property, such that market-level rents or vacancies could not be attained, then an adjustment might be justified. 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 "A" Office vacancy rate analysis for the north-east quadrant.

[40] The Board did not find the Complainant's evidence and argument sufficiently compelling to warrant an adjustment to the vacancy rate.

[41] The assessments are confirmed at 42,100,000 and 40,490,000.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF August 2014.



Walter F. Krysiniski

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	