



**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:**

***Melcor Reit GP 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>058167305</b>               |
| <b>LOCATION ADDRESS:</b> | <b>1422 Kensington Road NW</b> |
| <b>FILE NUMBER:</b>      | <b>74865</b>                   |
| <b>ASSESSMENT:</b>       | <b>\$6,090,000</b>             |

This complaint was heard on 17<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. 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, which is germane to the subject complaint, be cross-referenced to Complaint #74872. The Respondent was in agreement, and the Board agreed to the request.

#### **Property Description:**

[3] The Subject Property consists of a 0.35 acre parcel of land zoned "Commercial-Office", located in the Hillhurst community. The parcel is improved with a 24,061 square foot (sf.) three-storey suburban office building. The building was constructed in 1979 and is classified as "B" quality.

#### **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: Parking Rate**

[5] The Complainant is requesting a change in the assessed parking rate for the subject property. The current assessed rate is \$2,160 per stall and the requested rate is \$1,236 per stall.

**Complainant's Requested Value:** \$4,950,000 or \$5,330,000 [C1; Pg. 6].

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

[6] For the reasons outlined herein, the Board confirms the assessment at \$6,090,000.

#### **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 documents were presented and labelled Exhibit C1 (433 pgs.) and C2 (91 Pgs.). 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.

[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.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 will be 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.

[11] 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.

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

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

[14] 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:**

[15] The Respondent submitted evidentiary documentation, which was labelled Exhibit R1 (327 pgs.). Various maps, aerials and photographs were provided, offering a visualization of the location and building characteristics of the subject property.

[16] 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.

[17] In support of the applied 7.00% 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.

[18] 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.

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

[20] Additionally, the Respondent referenced ASR results for the Complainant's four sales, using the requested 8.00% 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.

[21] 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, the assessed 7.00% cap. rate produces an accurate assessment.

[22] 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 argued that this data, although third party information, provides an industry perspective that supports the assessed rate.

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

[23] 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.

[24] 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.

[25] 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 Respondent's time adjusted mean and median ASR's of 0.97 and 0.99.

[26] 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.

[27] 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.

[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: Parking rate**

### **Complainant's Position**

[29] The Complainant submits that the subject property is being over-assessed in respect of the parking rate, which is currently \$2,160 per stall. It is submitted that the correct assessed parking rate should be \$1,236 per stall.

[30] A chart was provided [C1; Pg.16] comparing the annual parking income for the subject with that of 6 other office properties within the Kensington area. The Complainant noted that the subject property, attaining an annual income of \$1,236 (\$103/mo.), is not currently achieving the City's typical annual rate of \$2,160. Compared to the other six properties, with annual parking stall incomes ranging from \$1,440 to \$2,700 per stall, the subject's achieved income does not compare.

### **Respondent's Position**

[31] The Respondent presented their submission R1 (327 Pgs.), and referenced the "2014 Suburban Office North Core Parking Rate Analysis" [R1; Pg. 27], reflecting annual parking incomes for eleven properties in the region. Annual parking incomes per stall indicated Mean, Median and Weighted Mean values of \$1,927, \$2,052 and \$2,147 respectively. The Respondent argued that the analysis supports the \$2,160 assessed rate.

[32] In addition, the Respondent argued that the property assessment function does not contemplate site-specific rates, but rather values all similar properties at a similar rate, per the principles of mass appraisal.

[33] Finally, the Respondent referenced a re-created Complainant analysis [R1; Pg. 28], wherein Average, Median and Weighted Average values were calculated for the Complainant's Kensington area comparables. The results yielded annual rates per stall of \$2,149.71, \$2400.00 and \$2,266.47 respectively. The Respondent summed up by pointing out that even the Complainant's own analysis of only Kensington area properties, when viewed statistically, support the assessed parking rate.

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

[34] The Board finds that the Respondent's evidence respecting parking rates was more comprehensive than that of the Complainant.

[35] Assessment valuation is predicated on a mass appraisal process. The Complainant's request for an assessment predicated on site-specific value is inconsistent with accepted assessment valuation principles.

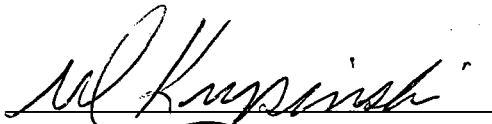
[36] The Complainant's own evidence, when submitted to statistical measures, supports the assessed annual parking rate of \$2,160 per stall.

[37] Based on evidence and argument presented, the Board does not find the Complainant's

evidence to be sufficiently compelling to warrant a reduction.

[38] The assessment is confirmed at \$6,090,000.

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

A handwritten signature in cursive script, appearing to read 'Walter F. Krynski', is written over a horizontal line.

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**

| Appeal Type | Property Type | Property Sub-Type | Issue                               | Sub-Issue |
|-------------|---------------|-------------------|-------------------------------------|-----------|
| CARB        | Commercial    | Suburban Office   | Capitalization<br>Rate/Parking Rate |           |