

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:

Estancia Investments Inc.
(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:	058168402
LOCATION ADDRESS:	1228 Kensington Road, NW
FILE NUMBER:	74871
ASSESSMENT:	\$10,530,000

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, which is germane to the subject complaint, be cross-referenced to Complaint #74872. The Respondent was in agreement, and the Board consented to the request.

Property Description:

[3] The Subject Property, known as Kensington Professional Centre, consists of a 0.31 acre parcel of land, zoned "Commercial-Corridor 1", located in the Kensington District. The parcel is improved with a 45,164 square foot (sf.) four-storey suburban office building. The building was constructed in 1983, 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: Vacancy Rate

[5] The Complainant is requesting a chronic vacancy allowance to reflect the above average levels of vacancy within the subject building over a number of years.

Complainant's Requested Value: \$9,210,000 or \$8,580,000 [C1; Pg. 6].

Board's Decision:

[6] For the reasons outlined herein, the Board confirms the assessment at \$10,530,000.

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 (445 pgs.) and C2 (87 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 (329 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% 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 flaws 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 notes that 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 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: Vacancy rate

Complainant's Position

[29] The Complainant submitted that the subject property has suffered from above average vacancy for a number of years.

[30] A summary chart was provided [C1; Pg. 17] summarizing the annual vacancy levels within the subject property for the period June, 2010 through July 2013. The Complainant noted that the subject property significantly exceeded the assessed vacancy rates for each of the referenced years.

[31] Supporting documentation was presented in the form of the subject property's rent rolls for the referenced years.

[32] Additionally, the Respondent supplied a list of some thirty-five CARB Decisions from 2012 and 2013 [C1; Pg. 17]. The Complainant argued that the basis for all of the Board Decisions was that where a property was shown to be suffering from above average vacancy for three or more years, some kind of additional vacancy allowance should be applied.

[33] Based on the foregoing, the Complainant has requested that an additional 4% "chronic vacancy allowance" be added to the subject's assessed 6% vacancy rate, for a total vacancy rate of 10%.

Respondent's Position

[34] The Respondent presented their submission R1 (329 Pgs.), and referenced the Assessment Request for Information (ARFI), for the subject property [R1; Pgs. 18-27], which was returned to the City March 22, 2013. The ARFI did not, however, summarize the total vacant area per the request.

[35] In addition, the Respondent referenced the City's "2014 Suburban Office Vacancy Study: Northwest 'B' & 'C' Quality" [R1; Pgs. 29-30]. The comprehensive analysis reports vacancies for 47 office properties in the City's northwest quadrant, indicating an overall vacancy rate of 6.52%, which supports the 6% assessed rate.

[36] Furthermore, the Respondent referenced publications from the Alberta Assessors Association (AAA), as well as the International Association of Assessing Officers (IAAO), wherein there is no mention of chronic vacancy. The Respondent noted a quote from the IAAO, [R1; Pg. 39] "*Vacancy and collection loss should be based on market research, and not actual rental history of a property*". It was argued that the Complainant's request for a property-specific vacancy allowance is contrary to assessment practice.

[37] The Respondent referenced a 2013 CARB Decision on the subject property [R1; Pgs.142-147]. It was noted that in the previous year, the Complainant had not requested a chronic vacancy allowance, when the subject vacancy was at a high point of 21.35%.

[38] Finally, the Respondent argued that, while the subject property has displayed higher than typical vacancies over the previous four-year period, the situation is cyclical. Their vacancy has been in a consistent decline, with the current year at 9.84%, being a modest 3.84% over the typical 6.00%.

Board's Reasons for Decision:

[39] Based on the evidence presented, the Board was not able to identify a cause for the higher than normal vacancy levels occurring in the subject property over the previous four years. The question arises as to whether the vacancy is a symptom of some underlying physical or locational condition, which prevents the property from competing economically with similar properties. A review of the subject ARFI indicates current (2013) office rents in the order of \$18.50 psf. and \$20.00 psf., well above the assessed \$16.00 typical rent, which tends to suggest that this is not the case.

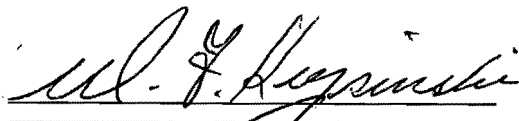
[40] There is some merit to the Respondent's argument that the subject's higher vacancy is cyclical, and the vacancy level is shown to be in decline. The 2013 reported vacancy at 9.84% is less than half the 21.35% reported in 2012, and only 3.84% above the typical 6% assessed vacancy level. By definition, chronic means "lasting" or "prolonged". While the subject vacancy has been shown to be higher than typical, the dramatic decline of vacancy into 2013 does not support a notion of prolonged high vacancy.

[41] Without tangible evidence of actual physical or locational deficiencies that could be a factor in the subject's vacancies, the Board is reluctant to adjust the assessed vacancy rate.

[42] Based on evidence and argument presented, the Board does not find an adjustment to the assessed vacancy rate to be warranted.

[43] The assessment is confirmed at \$10,530,000.

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/Chronic Vacancy	