

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:	058168097
LOCATION ADDRESS:	1240 Kensington Road NW
FILE NUMBER:	74872
ASSESSMENT:	12,650,000

This complaint was heard on 16th 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*
- *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] 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 #74887. The cross reference relates solely to both Complainant's and Respondent's opposing methodologies of calculating Net Operating Income in Capitalization Rate analyses. The Respondent was in agreement, and the Board consents to the request.

Property Description:

[3] The Subject Property, known as Kensington Place, consists of a 0.45 acre parcel of land, zoned "Commercial-Corridor 1", located in the Kensington District. The parcel is improved with a 49,621 square foot (sf.) three-storey suburban office building, with some main floor retail. The building was constructed in 1981, and is classified as being "B" quality.

Issues:

[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.

Complainant's Requested Value: 11,070,000

Board's Decision:

[5] For the reasons outlined herein, the Board confirms the assessment at 12,650,000.

Legislative Authority, Requirements and Considerations:

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

Complainant's Position:

[7] 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.

[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.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 8.0% is in order.

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

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

[12] 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, and as such, they must be excluded.

[13] Finally, in Rebuttal Document [C2; 91 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. Corrected pages 61 and 77 of Document C2 were submitted, and labelled Exhibit 3 and Exhibit 4.

Respondent's Position:

[14] 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.

[15] 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.

[16] 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% cap. rate.

[17] 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.

[18] 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.

[19] 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 are 0.86 and 0.89 respectively, which in the Respondent's opinion, reflect below market assessments.

[20] 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. The Respondent noted that, either way, the assessed 7.0% cap. rate produced an accurate assessment.

[21] 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 7.0%. The Respondent argued that this data, although third party information, provides an industry perspective that supports the assessed rate.

Board's Reasons for Decision:

[22] 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.

[23] 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.

[24] 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.

[25] 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 were indicated.


[26] 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% rather than an 8% cap.rate.

[27] 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

assessment.

[28] The assessment is confirmed at 12,650,000.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF August 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
4. Exhibit 1	Corrected C1; Pg. 22
5. Exhibit 2	Corrected C1; Pg. 208
6. Exhibit 3	Corrected C2; Pg. 61
7. Exhibit 4	Corrected C2; Pg. 77

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	