



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:

ASI 17th Avenue Corp. (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
R. Deschaine, BOARD MEMBER
K. Farn, 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:	079131603
LOCATION ADDRESS:	235 – 17 AV SE
FILE NUMBER:	75827
ASSESSMENT:	\$1,980,000

This complaint was heard on 12th day of June, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *W. Van Bruggen – MNP LLP*

Appeared on behalf of the Respondent:

- *C. Chichak – Assessor, City of Calgary*

Regarding Brevity

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

Board's Decision in Respect of Procedural or Jurisdictional Matters:

[2] None

Property Description:

[3] The subject is a 5,913 square foot (SF) land parcel, improved circa 1995 with a two-storey office/retail building in the Beltline 8 (BI 8) district of downtown Calgary. The site contains a "C+" class building with a total 3,600 SF of office space, and 3,802 SF of retail. It is located at 235 – 17 AV SE. The subject was assessed using the Income Approach to Value for a total assessment of \$1,980,000.

Issues:

[4] The Complainant raised the following issue:

- a) Was the subject assessed using the correct Rent, Vacancy, and Parking rates in the City's "Income Approach to Value" calculation?

Complainant's Requested Value: \$1,700,000.

[5] The Complainant requested an assessed value of \$1,700,000 instead of the assessed \$1,980,000.

Board's Decision:

[6] The Board confirmed the assessment at \$1,980,000.

Legislative Authority, Requirements and Considerations:

[7] The Complainant referenced Section 289(2) of the Municipal Government Act (MGA) in his presentation. This Section states:

“289

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.”

[8] The Complainant briefly referenced Part 1 Section 4(1) of “Matters Relating to Assessment and Taxation Regulation” (MRAT) in his presentation. This section states:

“Valuation Standard

4(1) The valuation standard for a parcel of land is

(a) market value”

Positions of the Parties**Complainant's Position:**

[9] The Complainant argued that the Respondent assessed the subject at too high a value because improper inputs were used in the Income Approach to Value calculation. He suggested that the Respondent's retail rent rate of \$19.00 per SF should be \$17.50 per SF; the Vacancy rate should be 10.25% instead of 8%; and the Operating Cost should be \$12.00 per SF instead of the assessed \$10.00 per SF. He argued that by using these alternate values, the value of the subject should be \$1,700,000 instead of the assessed \$1,980,000. He provided a summary of his preferred “values” on page 6 of C-1.

[10] The Complainant provided the Board with a matrix on page 15 of C-1 of MNP's review of "Beltline Rental Rates" for C-Class retail buildings. He clarified that the seven samples listed, from five buildings, were those used by the City in its analysis of rent rates for the area. He argued however that he had not used two of these leases from a property at 10011 – 1 ST SW. He argued that the \$34.31 per SF average value of the two leases, skewed the results to the "high side" of the valuation, and hence he considered them to be outliers. He argued that the remaining 5 leases from four buildings demonstrated a weighted average of \$17.41 per SF and were more applicable to the subject.

[11] The Complainant provided a copy of a portion of the City's study of retail vacancy rates in the beltline. He segregated 69 of the C-Class properties from the full study, and determined that 41,996 SF from a total of 408,367 SF was vacant – representing a 10.28% vacancy rate. He argued that 10.25% is the correct vacancy rate to be applied to the subject and not the assessed 8%. He also provided a complete copy of the City's retail vacancy rate study beginning on page 49 of C-1.

[12] On page 19 of C-1 the Complainant provided selected portions of the City's "Beltline Monthly Parking Rate" study, noting that one portion of the study – based on two samples of 85 stalls each – appears to demonstrate that \$60 per stall per month is the correct value to be applied to the calculation of value. Nevertheless, he referenced a different part of the City's study which appeared to show that in beltline zones BL1; BL2; BL5 – 8; FS1; TA1 – 3, the 2014 monthly rate for surface parking is typically \$165 per stall per month. The Complainant opted to recommend the use of the \$165 per stall per month for his calculations of alternate assessed value for the subject.

[13] The Complainant identified his calculations of alternate assessed value on page 21 of his Brief C-1. He clarified that his own examination of the City's data determined that alternate rates were warranted. The Complainant did not provide any study to support his requested change in Op Costs from \$10 to \$12. The Complainant ultimately concluded that the assessed value of the subject should be reduced to \$1,700,000.

[14] In rebuttal, and in response to the Respondent's argument that his (Complainant's) request would ultimately produce a nearly identical assessment value for the subject because of a resultant change to the Cap Rate, he argued that the Respondent is incorrect regarding this point. The Complainant suggested that pages 15 and 16 of C-2 (which displayed excerpts from City Rent Rate Studies) demonstrate and support his arguments regarding this point.

Respondent's Position:

[15] The Respondent questioned the Complainant regarding the validity of two leases from a property at 10011 – 1 ST SW used in the City's study, but rejected by the Complainant in the latter's analysis. While the Complainant concurred that these two leases were indeed "valid" leases, he advised that he had not completely investigated them, and "speculated" that they

were restaurants and hence "outliers". The Respondent countered that the City's beltline rent rate study used several hundred lease examples – some high and some low, that all were researched for authenticity, and thereafter completed its analysis. As a result, the City identified from its analysis of 1,700,000 SF of space that the typical rent rate for C-Class buildings like the subject was \$19 per SF for retail space.

[16] The Respondent confirmed that he was personally responsible for preparing the City's parking rates study and it was clear to him that the Complainant had misapplied the resultant values to the subject. The complete study appeared on pages 37 to 39 of his Brief R-1. He argued that the Complainant had focused on sectors of the City's parking study, which had little application to the subject. He noted that his study indicated that \$295 per stall per month (pspm) was typical for surface parking stalls in BL3; \$200 pspm for BL4; and \$165 pspm for all other beltline zones. He confirmed that \$165 pspm was used to assess the subject, and the Complainant has not effectively refuted this value with any independent studies of his own.

[17] The Respondent argued that while the Complainant seeks to change certain inputs (rent; parking; Op costs) to the assessment calculation, he has not considered the impact this would have on the Capitalization Rate for the subject. He argued that if the inputs are changed, then the Cap Rate will change. He referenced Calgary Composite Assessment Review Board Decision CARB 0958/2011-P, and Municipal Government Board decision MGB 048/03 on pages 51 and 15 respectively of C-1 to support his point.

[18] The Respondent also provided separate calculations on pages 26 to 29 of R-1, and page 17 of R-1 to demonstrate this principle. He noted that if one uses the Complainant's requested rates for rent and parking for example, and the typical Cap rate changes accordingly, the indicated alternate value is \$1,970,000 – only \$10,000 (0.05%) less than the assessed value. The Respondent argued that the Complainant has not considered the impact on the potential assessment value which would arise from his request.

Board's Reasons for Decision:

[19] With respect this appeal, the Board finds that;

- a) The Complainant provided insufficient information to demonstrate that the assessed typical parking rate of \$165 per stall per month is incorrect. The Complainant provided two isolated examples to support \$60 per stall per month, whereas the Respondent who personally conducted the City study, used overwhelmingly more examples displayed in R-1 to determine his typical value of \$165 per stall per month used to assess the subject. The Board accepts the Respondent's valuation.
- b) The Respondent provided evidence in R-1 demonstrating the analysis of 1,700,000 SF of beltline retail space to determine a typical 8.27% Vacancy Rate, whereas only 8% was used to assess the subject. The Complainant on the other hand, used

approximately 408,000 SF of retail space to identify a 10.28% Vacancy Rate. Therefore, the Board finds that the Complainant provided insufficient evidence to decisively conclude that the City's 8% vacancy rate is incorrect.

- c) The Respondent provided a sample of seven (of several hundred) beltline retail rent rates demonstrating a weighted mean of \$19.70 per SF. While the Complainant opted to use the Respondent's examples, he arbitrarily, and evidently without close examination of them, dismissed two of the leases as "outliers" on a "speculative" basis. In the Board's view, this procedure by the Complainant resulted in a skewing of the results, and weighted the argument on this issue towards the Respondent.
- d) While the Complainant prepared an Income Approach to Value valuation for the subject to support his position on this point, he confirmed that he relied on "typical" values gleaned from City studies because he was unable to conduct his own studies. The Board accepts the position of the Respondent that the Complainant has misinterpreted several of the City's valuation studies, and used incorrect City values in his Income Approach to Value calculation of alternate value for the subject. This erroneous calculation appears on Page 78 of C-1. Therefore the Board finds this evidence from the Complainant to be unreliable.
- e) The Board is satisfied from the detailed evidence presented during the hearing that the data produced from the Respondent's studies is relevant and valid. Indeed, the beltline parking study was personally undertaken on behalf of the City by the Respondent who was completely familiar with it. It was not challenged by the Complainant, who, in fact, used parts of it (erroneously) for his own purposes. The Board is also satisfied that this data was correctly and appropriately applied to methodologies used to assess the subject, thereby leading to a correct, fair, and equitable assessment.
- f) It concurs with the Respondent that the Complainant's proposed revised inputs and resulting calculations affect the Cap Rate to be applied to the subject. The Complainant's several arguments to the contrary were not supported by direct evidence, whereas the Respondent produced several CARB and MGB decisions confirming the same. The Board therefore placed little weight on the Complainant's arguments regarding this issue.
- g) The Complainant provided insufficient information to demonstrate to the Board that the assessment is incorrect, unfair, or inequitable.

DATED AT THE CITY OF CALGARY THIS 11th DAY OF July 2014.



K. D. Kelly
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C-1	Complainant Disclosure
2. C-2	Complainant Disclosure - Rebuttal
3. R-1	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.*

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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	commercial	Beltlane office and retail	market value	Assessment parameters