



## **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:**

***Claret Corp. (as represented by Cushman and Wakefield Inc.), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***M. Axworthy, PRESIDING OFFICER***

***P. Cross, BOARD MEMBER***

***J. Massey, 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: 068096205**

**LOCATION ADDRESS: 534 9 AV SE**

**FILE NUMBER: 76254**

**ASSESSMENT: \$1,460,000**

This complaint was heard on 7 day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *J. Goresht, Agent, Cushman and Wakefield Inc.*

Appeared on behalf of the Respondent:

- *V. LaValley, Assessor, The City Of Calgary*

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

- [1] No procedural or jurisdictional matters were raised.

**Property Description:**

- [2] The subject property is located in the DT3 Non- Residential Zone (NRZ). It is developed with a 12,900 square foot (SF), two storey warehouse/office building constructed in 1952 with a Quality rating of D. The building contains 9,706 SF of warehouse/office space on the main and upper floors, 1,217 SF of office/warehouse below grade and 1,977 SF of storage below grade. The property has an assessable land area of 6,500 SF. The subject is assessed using the Income Approach to value.

**Issues:**

- [3] While a number of issues were identified on the Complaint Form, the only issue argued at the hearing was that the property had been incorrectly assessed because:
- a) The property should be assessed as land value only.
  - b) The \$11.50 per SF assessed rental rate used by the Respondent was too high for the subject as the property was inundated with pillars and difficult to use.

**Complainant's Requested Value: \$950,000 on the Complaint Form; revised at the hearing to \$ 1,105,000.**

**Board's Decision:**

- [4] The Board confirmed the assessment.

**Legislative Authority, Requirements and Considerations:**

- [5] Under the Act Section 460.1(2) and subject to Section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5)

that is shown on an assessment notice for property, other than property described in subsection 460.1 (1)(a).

[6] The Board was presented with a decision of an Assessment Review Board. While the Board respects the decisions made by other Boards, it is mindful that decisions of other Boards were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. The Board will therefore give limited weight to this decision, unless the issues and evidence are found to be timely, relevant and materially identical to the subject complaint.

[7] The Board reviewed the evidence provided by both parties and will limit its comments to the relevant facts pertaining to this case.

### **ISSUE: Is the property incorrectly assessed?**

#### **Position of the Parties**

##### **Complainant's Position:**

[8] The Complainant stated that the subject was a two storey office building with office uses on the main and upper floors, with storage and some office space in the basement. The building had originally been built as a grocery store and contained a number of pillars on each floor that limited the use of the floor space. There is no parking for tenants available on site.

[9] The Complainant provided a site plan [C1, p. 5], a number of photographs and floor plans for each floor as evidence of the physical features of the building [C1, pp. 9-20]. The Complainant observed that the second floor office space was accessed by a separate entrance and stairwell and that the second floor was not accessible from the interior of the main floor.

[10] The Complainant stated that the first floor and the basement was occupied by a printing business "First On Colour", that owned the building and that the second floor had been rented in 2013 on a short term lease at \$13.00 per SF to the construction company that was rebuilding the King Edward Hotel.

[11] The Complainant stated that the assessment of the subject property was inequitable as there were other improved properties nearby with operating businesses and these properties had been assessed on the basis of land value only.

[12] In support of its argument, the Complainant provided the Board with a map of nearby properties with operating businesses (denoted with the letter 'C') [C1, p. 8] and a Table listing those properties (and others not mapped), their respective building areas, assessable areas, the valuation approach used, quality rating etc.

[13] The Complainant specifically noted that the building next door at 538 9 AV SE contained an operating business and had been assessed using the Sales (land only) Approach.

[14] The Complainant referenced a 2013 Assessment Review Board decision (CARB 73782P/2013) for the subject property that determined that for 2013, the Sales (land only) Approach was the most equitable approach to valuation.

[15] In response to evidence provided by the Respondent regarding its 2014 Downtown/Beltline Warehouse Rental rate Analysis [R1, p. 53], the Complainant argued that the Respondent's method of arriving at a rental rate for this property was a "construct" as the

comparables used by the Respondent were far removed from the subject's location and were of a "completely different nature and development history".

[16] The Complainant further argued that the "East Village Comparables" used by the Respondent [R1, p. 38] were not comparable in sub property use or quality rating and should be disregarded by the Board.

[17] The Complainant stated that while there was a current lease for the subject property at \$13.00 per SF, it was a short term lease and was at a higher rate because of the wear and tear associated with the construction site management use of the rental area.

[18] While the Complainant argued that the assessed rental rate of \$11.50 was too high, no alternate per SF rental rate value was requested by the Complainant.

#### **Respondent's Position:**

[19] The Respondent reviewed The City of Calgary's (The City's) practice regarding when a property is valued using the Sales (land only) Approach vs. the Income approach. The Respondent stated that when an improved property's income potential exceeds its current land value, it will be assessed using the Income Approach. The same practice is applied when an improved property's land value exceeds its income potential: it will be assessed as "land only" [R1, p. 3].

[20] In support of its argument, the Respondent provided a list of "East Village Comparables" that included the subject and three other properties with improvements to demonstrate that where the assessed income potential exceeded the land value, the Income Approach to value had been used [R1, p. 38].

[21] The Respondent also provided a 2014 Downtown/Beltline Warehouse rental rate analysis for two properties, noting that both leases were dated, and that there was a paucity of current lease data.

[22] The Respondent advised the Board that it had received a 2013 Assessment Request for Information (ARFI) for the subject property, but for some reason, this lease had not been included in the analysis. The lease was signed on 02/01/2013 for 2.5 years and is higher than the assessed rental rate of \$11.50 [R1, pp. 38 and 53].

[23] The Respondent referred to the decision contained in CARB 73782P/2013 and maintained that in that decision, the Board had determined that the absence of evidence to support the Income Approach led the Board to conclude that the Sales (land only) Approach was the preferred method to valuation [C1, p. 7 of 8, para. 28]. The Respondent noted that it had taken the CARB 73782P/2013 decision into account by providing market lease rate comparables for the subject and the ARFI for the subject property showing a current lease rate of \$13.00.

[24] The Respondent noted that the Complainant had not provided any market evidence to refute The City's rental rate of \$11.50.

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

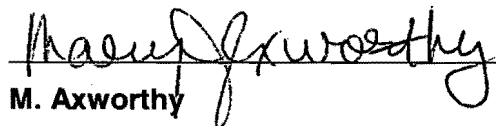
[25] The Board finds that the Income Approach to value is the appropriate method to use in this case.

[26] The Board accepts the Respondent's explanation of its practice with respect to when the Income Approach vs. The Sales (land only) Approach is used and finds that it has been consistently applied [R1, p. 38] to the subject and similar properties.

[27] The Board finds that the subject was leased on 02/01/2013 for a period of 2.5 years at a rate of \$13.00 per SF and was assessed at a rental rate of \$11.50 per SF. The Board was not provided with any evidence to suggest that the assessed rental rate applied by The City was incorrect. Therefore, the Board accepts the assessed rental rate of \$11.50 used by the Respondent.

[28] As the assessed value of \$1,460,000 derived from the Income approach exceeds the "land only" value of \$1,105,000, the Income Approach is the appropriate valuation method in this case.

DATED AT THE CITY OF CALGARY THIS 31<sup>st</sup> DAY OF July 2014.



M. Axworthy  
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. 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 Only**

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Office		Income Approach vs. Land Only	