

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:

***Berdaland Canyon Limited (as represented by Colliers International Realty Advisors Inc.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***B. Horrocks, PRESIDING OFFICER
T. Livermore, BOARD MEMBER
R. Kodak, 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:	142077908
LOCATION ADDRESS:	11625 ELBOW DR SW
FILE NUMBER:	76649
ASSESSMENT:	\$20,040,000

This complaint was heard on the 6th day of August, 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:

- T. Howell (Colliers International Realty Advisors Inc.)

Appeared on behalf of the Respondent:

- G. Jones (City of Calgary)
- K. Ivinac (City of Calgary)

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

- [1] There were no concerns with the Composite Assessment Review Board (CARB) as constituted.
- [2] The Complainant has visited the site while the Respondent has not.
- [3] The parties have not discussed the file.
- [4] There were no preliminary matters. The merit hearing proceeded.

Property Description:

[5] The subject property is a 5.44 acre parcel located in the Canyon Meadows community in SW Calgary. The site is improved with a Neighbourhood Shopping Centre that has 76,227 square feet (sf) of assessable area in one building. The improvement was constructed in 1977 and is classified B quality.

[6] For the 2014 tax year, the subject is assessed using the Income Approach to Value. Typical rents applied were: \$15.00 per square foot (psf) for Big Box 14,001-40,000 sf, \$26.00 psf for CRU 0-1,000 sf, \$24.00 psf for CRU 1,001-2,500 sf, \$24.00 psf for CRU 2,501-6,000 sf and \$16.00 psf for Office. Typical vacancy allowances and non-recoverable operating expenses were deducted. The resulting net operating income (NOI) was capitalized at a rate of 6.75% to arrive at an assessed value that was truncated to \$20,040,000.

Issues:

[7] An assessment amount was identified on the Assessment Review Board Complaint Form as the matter that applies to the complaint. At the outset of the hearing, the Complainant advised that there were two outstanding issues, namely; market rent for Big Box and vacancy.

Complainant's Requested Value: \$17,434,800 (Complaint Form)
\$14,400,000 (Hearing)

CARB's Decision:

- [8] The 2014 assessment is confirmed at \$20,040,000.

Legislative Authority, Requirements and Considerations:

The CARB derives its authority from the Act, Section 460.1:

- (2) *Subject to section 460.1(1), 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(1)(a).*

The Act requires that:

- 293(1) *In preparing an assessment, the assessor must, in a fair and equitable manner,*
- (a) *apply the valuation and other standards set out in the regulations, and*
 - (b) *follow the procedures set out in the regulations.*

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

- 2 *An assessment of property based on market value*
- (a) *must be prepared using mass appraisal,*
 - (b) *must be an estimate of the value of the fee simple estate in the property, and*
 - (c) *must reflect typical market conditions for properties similar to that property.*
- 4(1) *The valuation standard for a parcel of land is*
- (a) *market value, or*
 - (b) *if the parcel is used for farming operations, agricultural use value*

CARB's Decision in Respect of Each Matter or Issue

Issue: What is the market net rental rate for Big Box 14,001-40,000 sf to be used in the Income Approach to Value to determine the market value of the subject property, for assessment purposes?

Complainant's Position:

[9] The Complainant's Disclosure is labelled C-1.

[10] The Complainant, on pages 28 through 31, provided the rent roll for the subject property as of June 1, 2014 noting Unit 0114 is at the end of a 22 year lease and the lease rate is \$8.50 psf. The Complainant submitted the location of the Big Box makes it atypical in the market place and requested the subject Big Box be assessed at the rate of \$8.50 psf.

Respondent's Position:

[11] The Respondent's Disclosure is labelled R-1.

[12] The Respondent, on page 19, provided a table titled Big Box 14,001 – 40,000 SF 'B' Quality. The table contains details of 17 leases from 16 Centres throughout the City. The lease rates range from \$10.35 psf to \$32.00 psf. The median lease rate is \$15.00 psf. The Respondent noted the subject Big Box is assessed at the rate of \$15.00 psf.

CARB's Findings:

[13] The Respondent's market evidence supports the assessed rate of \$15.00 psf.

Issue: Does the subject Neighbourhood Centre suffer from chronic vacancy and should the vacancy allowance for all spaces with the exception of the Big Box be increased from 6.00% to 20.00%?

Complainant's Position:

[14] The Complainant, on page 18, provided a copy of CARB 71807/P-2013 wherein the CARB had reduced the market rent on the Big Box from \$15.00 psf to \$8.50 psf and increased the vacancy rate from 7.5% to 20.0% for the subject property 2013 assessment. The Complainant submitted that nothing has changed since 2013 so the decision should be the same.

[15] The Complainant, on page 25, provided a table titled Vacancy. The table contains vacancy calculations for 2011, 2012 and 2013. The calculated vacancies were 14%, 27% and 22% respectively. The mean vacancy rate for the three year period was 21%. The Complainant requested the vacancy rate be increased to 20% for all CRU spaces with the exception of the Big Box.

Respondent's Position:

[16] The Respondent, on page 21, provided a table titled SW. The table provides vacancy calculations for all shopping centres in SW Calgary by classification. The Respondent noted the vacancy rate for Neighbourhood Centres is 6.24%. The Respondent noted the subject property is assessed with a vacancy allowance of 6.00%.

[17] The Respondent, on page 22, provided the Property Assessment Detail Report for a similar Neighbourhood Centre in SE Calgary, noting there was vacant lower level office space which represented a 12% vacancy rate.

[18] The Respondent, on page 29, provided the Property Assessment Detail Report for a similar Neighbourhood Centre in SW Calgary, noting there was 6,766 sf of 2nd level office space which is now vacant.

[19] The Respondent submitted that vacancy generally can be attributed to property constraints, management decisions and lack of advertising or marketing.

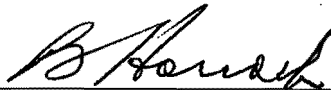
CARB's Findings:

[20] The Respondent's vacancy study supports the assessed vacancy allowance of 6.00%.

CARB's Reasons for Decision:

[21] There was no market evidence to support the rent reduction request and there was no backup evidence to support the vacancy request. The CARB is cognizant of the decision from last year, but without the benefit of the evidence considered in that decision, the CARB is not prepared to blindly accept it. The CARB notes that the vacancies reported on page 25 of C-2 are not the same as were reported in CARB 71807/P-2013 for 2011 and 2012.

DATED AT THE CITY OF CALGARY THIS 22nd DAY OF August 2014.



B. Horrocks

Presiding Officer

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

NO.	ITEM
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

Property Type	Property Sub-Type	Issue	Sub-Issue
<i>Retail</i>	<i>Neighbourhood Mall</i>	<i>Income Approach</i>	<i>Rental Rate/Vacancy</i>