



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:

***The Manufacturers Life Insurance Company
(as represented by Colliers Realty Advisors Inc), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***B. Horrocks, PRESIDING OFFICER
T. Livermore, BOARD MEMBER
D. Julien, 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:	067052704
LOCATION ADDRESS:	540 6 AV SW
FILE NUMBER:	76664
ASSESSMENT:	\$74,150,000

This complaint was heard on the 16th day of June, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

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

Appeared on behalf of the Respondent:

- K. Mulenga (City of Calgary)
- D. Lidgren (City of Calgary)

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

- [1] There were no concerns with the CARB as constituted.
- [2] The parties have visited the site.
- [3] The parties have discussed the file.
- [4] There were no preliminary matters. The merit hearing proceeded.

Property Description:

[5] The subject property is a 0.42 acre site located in the DT1 sub market area of the Calgary Downtown Commercial Core. The site is improved with a 14 storey office building commonly known as Calgary House that was constructed in 1965 and is classified B- quality. The building contains 9,767 square feet (sf) of main floor retail, 149,108 sf of office space and 8,999 sf of storage space. There are 69 parking stalls in an underground parkade.

[6] For the 2014 tax year the subject property was assessed using the Income Approach to Value. Typical rents applied were: \$22.00 psf for retail, \$23.00 psf for office space, \$8.00 psf for storage space and \$400.00 per month for each of the parking spaces. Typical vacancy allowances were deducted as were non-recoverable operating expenses. The resulting net operating income (NOI) was capitalized at a rate of 5.00% to arrive at an assessed value which was truncated to \$74,150,000.

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; capitalization (cap) rate and flood effects.

Complainant's Requested Value: \$64,510,500 (Complaint form)
\$28,520,000 (Hearing)

CARB's Decision:

- [8] The 2014 assessment is confirmed at \$74,150,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Act, Section 460.1:

- (2) *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(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 typical cap rate to be utilized in the Income Approach to Value for determining 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 submitted that the Respondent's methodology for determining a cap rate for use in the Income Approach to Value is flawed in that it has applied "typical" parameters against "actual" sales to achieve a "typical" cap rate and further that it is applying the wrong parameters in its analysis. The subject property is assessed using a 5.00% cap rate while the Complainant requested a 6.50% cap rate.

[11] The Complainant, on pages 12 and 13, provided a table that it identified as the Respondent's cap rate analysis for Downtown B Class Offices. The Complainant noted that the Respondent had used "Sale Year Typical Net Operating Income" and actual sale prices to determine a capitalization rate for each sale. The Complainant submitted the Respondent should have used "actual NOI", and in particular should have used the 2014 NOI when analyzing the sales of Standard Life Place and Northland Bank.

[12] The Complainant, on pages 40 through 63, provided the following decisions; CARB 1302/2011-P, CARB 1340/2011-P, CARB 1036/2012-P and CARB 70999P-2013, which address the need for the use of a consistent methodology when calculating a market value using the Income Approach. The Complainant argued that these previous decisions support its methodology.

[13] The Complainant, on page 94, provided a table titled Colliers Capitalization Rate Analysis. The table contains details of six sales that occurred in the period August 23, 2011 to February 15, 2013. The table contains a cap rate for each sale that had been extracted from the Real Net Transaction Summary for that sale. The cap rates ranged from 5.50% to 7.00%, with a median cap rate of 6.70% and a mean cap rate of 6.51%. The Complainant requested a cap rate of 6.50% be applied to the assessment.

[14] The Complainant, on page 157, provided an unsigned "Draft" Appraisal of Real Property as prepared by Cushman and Wakefield Ltd. The effective date of value is March 31, 2014. The draft report places the value of the leased fee interest of the subject property at \$59,000,000.

Respondent's Position:

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

[16] The Respondent referenced **The Appraisal of Real Estate – 2nd Canadian Edition: pg 22.3, 22.4** , **"The appraiser must make certain that the net operating income of each comparable property is calculated and estimated in the same way that the net operating income of the subject property is estimated.....Again, it is imperative that the appraiser analyze comparable sales and derive their capitalization rates in the same manner used to analyze the subject property and capitalize its income."** The Respondent submitted that recent Municipal Government Board rulings (MGB Board order #145/07), and the Judicial Review of that Board Order, have confirmed the Respondent's methodology as being correct.

[17] The Respondent, on page 16, provided a table titled 2014 Capitalization Study – Downtown. The table contains details of six sales of comparable properties that occurred in the period June 13, 2012 to February 15, 2013. A typical cap rate for each sale was derived by dividing the sale price by the typical NOI in the year of the sale. The typical cap rates ranged from 4.35% to 5.51% with a median cap rate of 4.91% and a mean cap rate of 4.92%. The Respondent noted that 5.00% had been used in the assessment of the subject property.

[18] The Respondent, on page 16, provided an Assessment to Sale Price Ratio (ASR) calculation for each sale using the Respondent's methodology and comparing the result to the ASR calculation for each sale using the Complainant's methodology. The Respondent's methodology yielded a median ASR of 0.95 and a mean ASR of 0.97, while the Complainant's methodology yielded a median ASR of 0.74 and a mean ASR of 0.75. The Respondent submitted its methodology produced a superior result.

[19] The Respondent, on pages 291 through 355, provided the following decisions: CARB 72666P-2013, CARB 73952 P-2013 and MGB 145/07 which support the principle of consistency and more specifically the requirement to use typical market rents when calculating the cap rates for assessment purposes.

CARB Findings:

[20] The CARB finds the Complainant relied upon cap rates and actual rents that were provided by third parties, some of which were estimated. The CARB has no way of knowing how those rates or rents were derived or for what purpose. The Respondent followed the methodology articulated in MGB 145/07. The CARB understands that calculating the value of a property using the Income Approach must be based on a consistent methodology. If "actual" rates are to be used to calculate a value using the Income Approach, then all of the parameters in that calculation must reflect actual values. The CARB finds the Complainant's final calculation of the market value is flawed. The Complainant used "actual" NOI to calculate its cap rate and then applied that cap rate along with "typical" lease rates and other "typical" parameters in its requested assessment calculation. The mixing of the two methods is not appropriate.

[21] The typical cap rate to be utilized in the Income Approach is 5.00%.

Issue: To what extent did the flood of 2013 effect the market value of the subject property?

Complainant's Position:

[22] The Complainant, on pages 134 through 153, provided a number of media reports that provided a chronology of the flood and offered commentary on possible impacts on the residential and lending markets.

[23] The Complainant, on page 154, provided a shaded Google map of downtown Calgary that was purported to identify those properties in downtown Calgary that had been flooded.

[24] The Complainant submitted that on July 1, 2013 (the evaluation date) there was virtually no market for real estate because of the flood and as a result the subject's market value should be reduced by 50%. In response to a question, the Complainant acknowledged the subject property was not flooded, nor was it evacuated.

Respondent's Position:

[25] The Respondent, on pages 23 and 24, provided ortho photos of downtown Calgary that identifies properties that were flooded, noting the subject was not flooded.

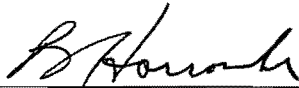
CARB Findings:

[26] The CARB is unable to determine what effect, if any, the flood had on the market value of downtown office properties. There was no market evidence provided that would support a 50% reduction in the subject assessment.

CARB's Reasons for Decision:

[27] The CARB finds the Income Approach using the assessed cap rate of 5.00% produces a better estimate of market value than the Income Approach using the requested cap rate of 6.50% when the ASRs are considered. The Complainant's request for a 50% reduction in the assessment was considered arbitrary as there was no market evidence as to how the flood had affected market values.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF July 2014.



B. Horrocks

Presiding Officer

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

NO.	ITEM
1. C1, C2	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>Office</i>	<i>High Rise</i>	<i>Income Approach</i>	<i>Cap rate</i>