



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 International 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:	067073601
LOCATION ADDRESS:	609 7 AV SW
FILE NUMBER:	76725
ASSESSMENT:	\$4,170,000

This complaint was heard on the 18th 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)

Appeared on behalf of the Respondent:

- K. Mulenga (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 not discussed the file.
- [4] There were no preliminary matters. The merit hearing proceeded.

Property Description:

[5] The subject property, commonly known as Old Baily, is a 0.21 acre parcel located in the DT2 Sub Market Area of the Downtown Commercial Core in Calgary. The property is improved with a two storey retail building that contains 8,654 square feet (sf) of retail space on the main floor, 8,740 sf of retail space on the lower level and 3,789 sf on the upper level. The building was constructed in 1973 and is classified as C quality.

[6] For the 2014 tax year the subject property was assessed using the Income Approach to Value. Typical rents applied were: \$16.00 psf for retail, \$12.00 psf for retail lower and \$16.00 psf for retail upper. Typical vacancy allowances were deducted as were non-recoverable operating expenses. The resulting net operating income (NOI) was capitalized at a rate of 6.00% to arrive at an assessed value which was truncated to \$4,170,000.

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; equity and flood effects.

Complainant's Requested Value: \$3,627,900 (Complaint Form)
\$1,220,000 (Hearing)

CARB's Decision:

- [8] The 2014 assessment is confirmed at \$4,170,000.

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 market value of the subject property for assessment purposes?

Complainant's Position:

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

[10] The Complainant advised that the subject improvement, formerly Quincy's restaurant, was vacant since October 2012. Further, because it was slated for demolition in late 2013, no new leases were signed. The Complainant submitted that the highest and best use of the property would be reflected in the land value. The Complainant requested the subject be assessed as land only, based on equity with similarly assessed buildings in the downtown core.

[11] The Complainant, on page 9, provided an untitled table. The table contains assessment information on three purported comparables with assessments ranging from \$313.56 to \$178.19 psf. The median rate of the three assessments was \$304.60 psf and the mean rate was \$265.45 psf. The Complainant requested that the subject be assessed at the rate of \$265.00 psf which would result in a market value of \$2,449,130.

[12] The Complainant, on pages 17 through 25, provided the RealNet Retail Transaction Summaries and the Property Assessment Reports for 115 7 AV SW, 614 6 AV SW and 617 8 AV SW noting they had all sold as "improved" properties in the period November 15, 2011 to December 4, 2012 but they had all been assessed as "land only" in 2014. The Complainant requested that the subject be equitably assessed as "land only".

Respondent's Position:

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

[14] The Respondent submitted that the subject property should not be valued on the basis of land value alone as the building on site was still in existence on December 31, 2013 (the condition date). In addition, "the subject space is fairly decent quality restaurant space" whereas the Complainant's comparables include office and living space, commercial space and theatre space respectively, and are not comparable to the subject.

[15] The Respondent, on page 14, provided a copy of a "Demolition Permit" that had been applied for on January 15, 2014 as proof that the improvement was still on the subject property on the "condition date" for the 2014 assessment.

[16] In response to a question, the Respondent stated that the Complainant's purported comparables were assessed as "land only" because their calculated market value, using typical parameters for the existing use in the Income Approach to Value, doesn't exceed the underlying land value.

CARB's Findings:

[17] The CARB finds the Complainant's comparables are not comparable to the subject property as they have different existing uses than the subject property.

[18] The CARB finds that the subject property was improved with vacant restaurant space on the "condition date." The subject property had the potential to generate income and should be assessed using the Income Approach to Value.

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

Complainant's Position:

[19] The Complainant, on pages 27 through 42, 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.

[20] The Complainant, on page 43, provided a shaded Google map of downtown Calgary that was purported to identify those properties in downtown Calgary that had been evacuated.

[21] 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:

[22] The Respondent, on page 36, provided an orthographic photo of downtown Calgary that identifies properties that were flooded, noting the subject was not flooded.

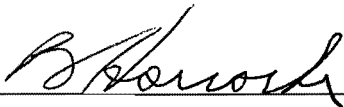
CARB Findings:

[23] The CARB is unable to determine what effect, if any, the flood had on the market value of downtown office properties.

CARB's Reasons for Decision:

[24] The 2014 assessment is confirmed at \$4,170,000 as it was prepared utilizing the Income Approach to Value and there is no market evidence to support a 50% reduction in that value as a result of flood effects.

DATED AT THE CITY OF CALGARY THIS 10 DAY OF July 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>Stand Alone</i>	<i>Income Approach</i>	<i>Equity</i>