



## **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

**422165 Alberta Inc.**  
**(as represented by Colliers International Realty Advisers Inc.)**

and

**The City Of Calgary, RESPONDENT**

before

**L. Yakimchuk, PRESIDING OFFICER**  
**D. Julien, BOARD MEMBER**  
**A. Wong, 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: 079003398**

**LOCATION ADDRESS: 219 17 Av SW**

**FILE NUMBER: 76794**

**ASSESSMENT: \$2,510,000**

This complaint was heard on June 23, 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:

- *T. Howell, Colliers International Realty Advisers Inc.*

Appeared on behalf of the Respondent:

- *C. Chichak, City of Calgary Assessor*

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

- [1] There were no procedural or jurisdictional matters.

**Property Description:**

- [2] The subject property is assessed as a 9,653 square foot (sf) "C" class Retail/Lowrise building constructed in 1956. It is located in the Beltline district of Calgary and has been assessed using the Income approach.

**Issues:**

- [3] Should the Cap rate for this property be increased from 5.50% to 6.25%?
- [4] Do the effects of flooding in 2013 merit a reduction of the value of this property by 50%?

**Complainant's Requested Value: \$1,100,000**

**Board's Decision:**

- [5] The Board confirmed the assessment at \$2,510,000.

**Legislative Authority, Requirements and Considerations:**

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000 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).

For the purposes of this hearing, the CARB will consider MGA Section 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) is the regulation referred to in MGA Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

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.

and MRAT Section 4(1), which states that

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

### **Position of the Parties**

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

[6] The Complainant, T. Howell, Colliers International Realty Advisors Inc., argued that the subject property is a "C" quality retail/lowrise which has been assessed with a 5.50% capitalization (Cap) rate and should be assessed with a 6.25% Cap.

[7] To support this assertion, the Complainant presented a Capitalization Rate Analysis (C1, p23). The analysis included three sales of Beltline retail properties with "C", "A2" and "AA" quality ratings which were transacted February 21 2013, December 14 2011 and July 8 2011. He drew his data from RealNet documentation.

[8] The Complainant took the "actual" Cap rates presented in the documentation and averaged them to find a typical Cap rate of 6.25% for these properties.

[9] Flooding was the second issue which the Complainant brought before the Board. Colliers pointed out that 2014 property taxes are assessed on Market Value on July 1, 2013 and physical condition on December 31, 2013. The Complainant presented a variety of sources (C1, p36) to support his argument that property in the flood prone part of the City had no value at the time of the flood or on the valuation date (July 1) and that the value was severely depressed by the flood. He cited a list of postal codes representing areas which may have been affected by floods. This list was published by Scotiabank with a note that these properties will require additional inspections or appraisals before financing can be approved (C1, p49). The subject property is in one of the listed postal code areas.

[10] The Complainant argued that, although no physical damage had occurred to the subject property, the value of the property was reduced because of the flood of June, 2013 and the final assessment should be reduced by 50%.

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

[11] The Respondent, C. Chichak, City of Calgary Assessor argued that the best way to calculate a typical Cap rate is to calculate typical Rents and Net Operating Incomes (NOI) first, then to calculate typical Cap rates and a median Cap rate. He also argued that third party

values such as the ones the Complainant used were not used as primary information, although they might be used to support information the City gathered through Assessment Requests for Information (ARFIs) and other research.

[12] The Respondent presented a study which included four sales of Beltline properties (R1, p110). Two were "AA" properties with net rentable areas of 49,567 sf and 23,709 sf. Two were "C" properties with net rentable areas of 4,608 and 2,274 sf.

[13] The list included two properties in common with the Complainant's list. The calculated typical Cap rates for these varied from the Complainant's, with somewhat lower values.

[14] The Respondent also showed photographs demonstrating that the subject property had not been flooded during the June 2013 flood event and had no physical effects as a result of the event. He also argued that there was no demonstration of any stigma attached to the property which would reduce its value.

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

[15] The Board reviewed the Complainant's presentation and argument. The evidence came from a third party source and there was no way to judge whether the data used to find these results was accurate. Although third party resources can be helpful in supporting arguments, they should not be relied upon as a sole source of information.

[16] The Board found the Respondent's approach, using information gathered from property owners and through assessors, to be more reliable. This information could then be used to calculate typical values from which rates applicable to all properties within specific groups could be calculated, for use in mass assessment. Much of this information is available to taxpayers through requests to the City of Calgary Assessment Business Unit.

[17] The Complainant argued that finding actual Cap rates and averaging them to get a typical Cap rate was preferable. He was unable to demonstrate this theory as he did not have complete data sets with which to work, therefore these calculations were not given weight by the Board.

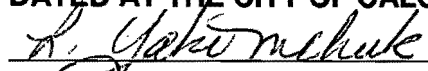
[18] The Board found no reason to change the Cap rate used in the subject assessment.

[19] The Board found that the Complainant's argument that there was no value to this property on July 1, 2013 due to stigma from the flood was not supported. There were no sales of comparable properties presented to demonstrate that any properties which were not flooded had lost value, and no sales to show a 50% loss in value at the condition date of December 31, 2013.

[20] For these reasons, the Board decided not to reduce the value of the assessment as a result of the June 2013 flood.

[21] The assessment is confirmed with a 5.5% Cap rate, at \$2,510,000.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF July 2014.

  
**L. Yakimchuk**

**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.*

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For office use only:

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
CARB	Retail	Low Rise	Income approach	Cap

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