



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:

***1219039 Alberta Inc. (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:	068107309
LOCATION ADDRESS:	219 8 AV SW
FILE NUMBER:	76795
ASSESSMENT:	\$10,580,000

This complaint was heard on the 17th 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:

- E. Borisenko (City of Calgary)
- D. Lidgren (City of Calgary)
- 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 is a 0.30 acre parcel, commonly known as Flames Central, located in the NonRes DT8 (Stephen Ave) Sub Market Area of the Downtown Commercial Core in Calgary. The site is improved with a two storey building that has 12,680 square feet (sf) of retail space on the main floor, 1,534 sf of retail space on the lower level and 4,768 sf of retail space on the upper level. The building was constructed in 1921 and is classified as A2 quality.

[6] For the 2014 tax year the subject property was assessed using the Income Approach to Value. Typical rents applied were: \$38.00 psf for retail, \$20.00 psf for retail lower and \$30.00 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 5.75% to arrive at an assessed value which was truncated to \$10,580,000.

Issues:

[7] Market Value 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: \$9,204,600 (Complaint Form)
\$3,990,000 (Disclosure)
\$4,345,000 (Hearing)

CARB's Decision:

[8] The 2014 assessment is confirmed at \$10,580,000.

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 is flawed, and further that the market data available for this stratification would warrant a reduction to the subject's assessment.

[11] The Complainant, on pages 26 through 37, provided RealNet reports for four sales that had occurred in the period September 8, 2011 and May 24, 2013. The Complainant, on page 57, identified the two properties located at 804 and 805 1 ST SW as being most comparable to the subject property. The Complainant noted those properties were assessed at the rate of \$421.07 psf and \$419.46 psf respectively. The Complainant requested the subject property be assessed at the rate of \$420.00 psf, so as to be treated equitably, which would result in an assessed value of \$7,972,440.

[12] The Complainant, with reference to the RealNet reports, noted that three of the four sales had estimated "actual" cap rates of 7.00%. The Complainant, on Page 58, applied the "typical" values for rental rates, vacancy and non recoverable expenses that had been utilized to calculate the assessment, to arrive at an NOI. That NOI was then capitalized at the aforementioned "actual" cap rate of 7.00% to arrive at a requested assessment of \$8,691,306.

Respondent's Position:

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

[14] The Respondent submitted that the Complainant did not conduct a cap rate study to arrive at its requested cap rate of 7.00%, and further that three of the four sales analyzed to support the requested cap rate were portfolio sales and two of those were not in the same DT8 submarket area as the subject.

[15] The Respondent, on page 27, provided a table titled 2014 Stephen AV Mall – Capitalization Study. The table contains details of one sale that occurred on January 16, 2012. Dividing the sale price by the sale year typical NOI yielded a cap rate of 5.88%. The Respondent noted the cap rate applied to the subject assessment was 5.75%.

[16] The Respondent, on page 28, provided a table titled 2013 DT8 Stephen AV Capitalization Rate, noting there were four sales that resulted in an assessed cap rate of 5.50%. The Respondent submitted that using only one sale to develop a cap rate was not desirable, but the year over year increase of 0.25% from 2013 to 2014 was reasonable.

[17] The Respondent, on page 30, provided an Investment Trends Survey as reported by Altus Insite, noting that the "Overall Capitalization Rate" for Q3 2013 was 5.8%, as further indication that the assessed cap rate of 5.75% was reasonable.

[18] The Respondent, on page 31, provided a table titled DT8 Stephen AV Sales. The table contains details of five sales that had occurred in the period April 13, 2011 to January 16, 2012. The Respondent noted that the property most comparable to the subject was Rose Garden Thai as both properties are 100% retail. The Respondent noted that Rose Garden Thai had sold in December 2011 for \$536 psf, while the subject was assessed at \$557 psf in 2014.

CARB Findings:

[19] The CARB finds the cap rates used by the Complainant are from a third party report. The CARB has no way of knowing how those rates 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 capitalization rate along with "typical" lease rates and other "typical" parameters in its requested assessment calculation. The mixing of the two methods is not appropriate.

[20] The cap rate to be applied in the Income Approach to value to determine the market value of the subject property for assessment purposes is 5.75%.

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

Complainant's Position:

[21] The Complainant, on pages 40 through 55, 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.

[22] The Complainant, on page 56, provided a shaded Google map of downtown Calgary that was purported to identify those properties in downtown Calgary that had been flooded.

[23] 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:

[24] The Respondent, on pages 58 and 59, provided information that had been prepared to advise property owners how the flood impact would affect 2014 assessments. The Respondent stated the subject was not in the floodway or the flood plain and was not physically affected.

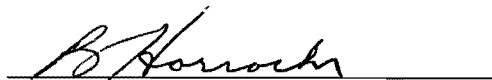
CARB's Findings:

[25] The CARB finds the subject was not affected by the flood and there is no market evidence to support the requested 50% reduction in the assessment.

CARB's Reasons for Decision:

The Respondent's market evidence, although it represented only one sale, supports the assessed cap rate of 5.75%. 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	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>Cap rate</i>