



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

Shaw Cablesystems Limited
(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: 201670015

LOCATION ADDRESS: 3330 23 St NE

FILE NUMBER: 76816

ASSESSMENT: \$74,510,000

This complaint was heard on June 24, 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:

- *L. Dunbar-Proctor, City of Calgary Assessor*
- *R. Tharakan, 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 6,960 sf and a 12,721 sf "A+" class Office/Lowrise constructed in 2001 and 2002. It has been assessed using the Income approach.

Issues:

- [3] Should the Capitalization (Cap) rate for this property be increased from 6.00% to 7.00%?

Complainant's Requested Value: \$66,380,000

Board's Decision:

- [4] The Board confirmed the assessment at \$74,510,000.

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

if the parcel is used for farming operations, agricultural use value

Position of the Parties

Complainant's Position:

[5] The Complainant, T. Howell, Colliers International Realty Advisors Inc., argued that the subject property is a suburban office which has been assessed with a 6.00% Cap rate, and which should be assessed with a 7.00% Cap rate. He also stated that the previous year's assessment was \$63,630,000 and this year's assessment was much higher. He argued that there was no market justification for such a tremendous increase in assessed value.

[6] To support this assertion, the Complainant presented a Capitalization Rate Analysis (C1, p19). The analysis included three sales of "A+" and "A-" class properties which were transacted on March 31, 2011 and September 19, 2012. The Complainant took the "actual" Cap rates presented in the documentation and averaged them to find a typical Cap rate of 7.10% for these properties. He asked for an increase in assessed Cap rate to 7.00%

[7] The Complainant also presented a Direct Sales Analysis to support the proposed Cap rate increase.

Respondent's Position:

[8] The Respondent, L. Dunbar-Proctor, City of Calgary Assessor presented evidence to show that the subject property had changed physically since the 2013 assessment. Photographs showed that there was an addition in progress at the north end of the property.

The Respondent indicated that this project was incomplete at the Condition date so it was assessed according to the value of building permits plus the portion of land which the new structure occupied. The assessment supplement shows this value as \$17,650,200 added on to the assessed value of \$56,860,750 for the remaining property.

[9] The Respondent argued that the best way to calculate a typical Cap rate is to calculate typical Rents and Net Operating Income (NOI) first, then to calculate typical Cap rates from these and to find a median Cap rate. The Respondent also argued that third party values such as the ones the Complainant used were not used by City of Calgary as primary information, although they might be used to support information the City gathered through Assessment Requests for Information (ARFIs) and other research.

[10] The Respondent pointed out (R1, p41) that using the estimated Net Operating Income (NOI) the Cap rate for 110 Country Hills Ld NW is actually 4.68% rather than 6.20%. The remaining two sales in the Complainant's analysis were transacted prior to the assessment period and no adjustment was made to accommodate that.

[11] The Respondent presented the 2014 Suburban Office Capitalization Rate Study – A Quality, which included five sales of suburban office properties (R1, p48). The study included “A-” and “A+” properties with Sale Registration Dates between July 10, 2012 and May 22, 2013. The average Cap rate for these sales was 6.06% and the median Cap rate was 6.09%. The typical assessment Cap rate was set at 6.00%.

Board's Reasons for Decision:

[12] The Board reviewed the Complainant's presentation and argument. The evidence came from a third party source and it was difficult 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.

[13] 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.

[14] The Complainant argued that finding actual Cap rates and averaging them to get a typical Cap rate was preferable. The Board reviewed the RealNet information used to support the Complainant's calculations and found that the available information was not always complete, and was sometimes inaccurate.

[15] Using the corrected Cap rate and removing the dated sales, the Board found the Cap rate was 4.68%. The Board did not give the Sales analysis weight because it was incomplete and dated and not pertinent to the issues.

[16] The Board also found that assessment rates for similar properties should be similar, and the analyses for typical rates for these various properties should include the same set of comparables in order to achieve equity for all similar properties. The Board found no reason to change the Cap rate used in the subject assessment.

[17] The Board found the additional assessment for the new portion of the improvements was clearly documented in the assessment explanation and accepted the value for that portion at \$17,650,200.

[18] The assessment is confirmed with a 6.00% Cap rate, at \$74,510,000.

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

A handwritten signature in dark ink, appearing to read 'L. Yakimchuk', is written over a horizontal line.

L. Yakimchuk

Presiding Officer

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

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 office use only:

A	B	C	D	E
CARB	Office	Lowrise (Unit Ownership)	Income approach	Cap
