



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 Bank of Nova Scotia (as represented by Avison Young Property Tax Services),
COMPLAINANT

and

The City Of Calgary, **RESPONDENT**

before:

K. D. Kelly, PRESIDING OFFICER
J. Mathias, BOARD MEMBER
B. Jerchel, 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:	049001217
LOCATION ADDRESS:	2850 Sunridge BV NE
FILE NUMBER:	76906
ASSESSMENT:	\$36,520,000

This complaint was heard on 24th day of June, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *C. Hartley – Avison Young Property Tax Services*
- *A. Farley – Avison Young Property Tax Services*

Appeared on behalf of the Respondent:

- *C. Neal – Assessor, City of Calgary*
- *S. Bazin – Assessor, City of Calgary*

Regarding Brevity

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None

Property Description:

[3] The subject is the owner/occupied 1997 two storey Bank of Nova Scotia customer call centre at 2850 Sunridge BV NE in the Sunridge business park. It consists of 117,481 square feet (SF) of office/call centre space over the two floors, including approximately 400 SF of cafeteria and fitness room space. It is assessed using the parameters of a northeast suburban "A+" office building, including 6.698 acres (AC) of excess land valued at \$5,385,210. The excess land is valued at \$1,000,000 an acre for the first 3 acres, and \$645,000 per acre for the remainder. The total assessment for the property is \$36,520,000.

Issues:

[4] The Complainant raised the following issues:

- (a) What is the correct "Quality" rating for the subject, and hence the correct Capitalization Rate (cap rate) to be used to value the subject?
- (b) What is the correct and equitable application of value for the subject's excess land?

Complainant's Requested Value:

[5] The Complainant requested that the assessment of the subject be reduced to \$26,500,000.

Board's Decision:

[6] The Board confirmed the assessment at \$36,520,000.

Legislative Authority, Requirements and Considerations:

[7] Other than various Calgary Composite Assessment Review Board (CARB) and Municipal Government Board (MGB) decisions, the parties did not refer to or rely upon specifically-cited provincial legislation or Court rendered legal precedents.

Positions of the Parties**Issue [4](a):****Complainant's Position:**

[8] The Complainant argued that the subject is a call centre in an "industrial park" with car dealerships and such, and therefore is misclassified as an "A+" Quality office building. He suggested therefore it is an "A2" Quality building and hence should not have been assessed using a 6% Capitalization Rate (cap rate) but rather a 6.25% cap rate. He provided a considerable number of exterior and interior photos of the subject and compared them to exterior photos of other "A2" Class buildings in the general area of the subject, which were considered similar to the subject. The Complainant clarified that he was unable to secure interior photos of his preferred comparables.

[9] The Complainant argued that the subject is an aged (1997) non-descript building with little or no market presence. He suggested it has no significant exterior architectural "statement", with the owner apparently preferring a minimal profile and lower visible presence in the community. He suggested that the site has no underground parking, retail features, or grand lobby or atrium, unlike most "A+" Class buildings – features which would set it apart from typical "A2" Class structures. The Complainant provided several pages of selected sections of the City's "Land Use Bylaw 1-P2007 July 23, 2007" to demonstrate the different development opportunities for various zones allowing such developments.

[10] The Complainant provided map locations, photographs and available functional details of several property comparables considered to be "A+" and "A" Class properties, and compared them to the subject. He argued that most enjoyed direct or indirect exposure to Deerfoot Trail and were therefore in a superior location than the subject. The Complainant suggested that most "A+" Class buildings were built later than the year 2000, and of eleven NE "A+" buildings he investigated, six had underground parking whereas the remaining five did not. He reiterated that while the subject has plenty of surface parking, it has no underground parking.

[11] The Complainant argued that a building diagonally across the street from the subject at 2827 Sunridge BV NE, while assessed as an office/warehouse, was constructed at the same time as the subject and is considered an "A2" Class building. He noted it has been extensively renovated, has minimal warehouse space, and is predominantly office space for industry and government. The Complainant noted it has no underground parking like the subject, is two storeys in height, and has equal to or greater presence and profile than the subject. He argued therefore that the subject is misclassified.

[12] The Complainant argued that the City's method of calculating the cap rate for the subject and its Class is flawed, and runs counter to MGB Order 140/01. He also argued that the City's methodology involves "looking backward in time" at "estimates of market rent/assessed income for transactions occurring in the fall of a given year (2012)." He argued that the Board in CARB decision CARB 70162P-2013 found, in its deliberations in that specific case, that this methodology was incorrect. The Complainant argued that the correct methodology to determine a cap rate was to "use the forward-looking market rent/assessed income date (2013) for sales that occurred in the fall of 2012".

[13] The Complainant argued that he reviewed the market for property sales similar to the subject, and, while there were several, he opted to choose two from the City's list of five sales that he considered to be "the best" and most comparable sales. He provided the Real Net data sheets for them and calculated that these two market sales demonstrate a cap rate of 6.25% is appropriate for the subject. The Complainant clarified that he had rejected a market sale used by the City and located at 1020 – 68 AV NE because it required an expensive \$1.2 million new roof. He also rejected the City's sale at 14505 Bannister RD SE because he considered it was part of an interprovincial portfolio sale of four buildings – two in Calgary and two in Saskatoon.

[14] The Complainant clarified that while the City uses typical operations costs (Op cost); vacancy rate (vac); and certain non-recoverables from a point in time (July 1), he suggested that the rents used in the City's assessment calculations are taken from a "range of data" over time (1 year). The Complainant argued that this is inconsistent. He suggested his methodology is supported by CARB Decisions 70517-2013 and CARB 70162-2013.

[15] The Complainant referenced a "hypothetical" matrix calculation prepared by the Respondent which was said to be designed to demonstrate the City's methodologies for calculating cap rates was better than the Complainant's. However, the Complainant noted that the author of the calculation had inferred 100% year-over-year rent increases and other

unsubstantiated rent increases in the order of 12% for example, and thus, the Complainant argued, the conclusions derived from this "hypothetical model" should not be relied upon by the Board.

Respondent's Position:

Issue [4](a):

[16] The Respondent argued that while the Complainant provided extensive photographs of the interior of the subject, the Complainant provided no interior photos of any of his comparable properties. She argued that it is impossible to compare the interior of one building with the exterior of many other buildings, and be able to say with any degree of certainty that the buildings are either an "A", "B", or "C" building and comparable, or not, to the subject. The Respondent provided colour copies of the interior of the subject and highlighted its extensive and lofty entrance and atrium features, arguing that the subject is not poorly finished inside as the Complainant alleges.

[17] The Respondent also argued that the Complainant provided no market or other evidence to demonstrate that a "call centre" is less valuable than any other office building. She also noted that whether or not a building has underground parking, is only one factor among many, many factors that determine the quality of a suburban office building. Therefore, she suggested, the Complainant is in error when he argues that whether or not a building has underground parking, is a primary determining factor.

[18] The Respondent also argued that the Complainant provided no market evidence to demonstrate, as alleged, that his "A" Class property comparables have enhanced value because they are exposed to Deerfoot Trail. Moreover, she argued that the subject is located in a business park and not an industrial park, and cannot be compared to office properties in downtown Calgary or its Beltline as the Complainant has done. The Respondent also argued that the location of the subject in the Sunridge business park is enhanced by a multitude of adjacent business enterprises and a thriving regional mall. Therefore, she concluded, the Complainant has failed to demonstrate that the subject is not an "A+" Class suburban office building.

[19] The Respondent provided a matrix containing 16 leases used in the City's 2014 suburban office rent analysis for "A+" Quality office buildings in NE Calgary. She noted twelve were from 2012 and four from 2013. The Respondent argued that the buildings from which these leases were taken have no exposure to Deerfoot Trail, and contrary to assertions by the Complainant, demonstrate that "Deerfoot exposure" is not a valuation factor that can be applied to the subject or other similar properties near to it. She referenced current leases in a property at 7661 – 10 ST NE as an example that supports her point on this issue.

[20] The Respondent argued that the City has thoroughly investigated its market sales used to calculate the cap rate, as applied to assess the subject. She clarified that the market sale rejected by the Complainant at 1020 – 68 AV NE, while it required a new roof, the City adjusted for that factor. The Respondent also confirmed that the City's market sale comparable at 14505 Bannister RD SE was part of an interprovincial portfolio sale of four buildings, but each building had been professionally appraised and their individual values confirmed in affidavits of value. Therefore, she was confident in the validity of the Bannister Road sale as an indicator of market value and useful in calculating the City's cap rate. The Respondent identified several CARB decisions which she argued supported her position on this point.

[21] The Respondent argued that the City's market sales were, for the most part, more recent 2013 sales whereas the Complainant's two sales were more dated 2012 sales. She considered them less reliable for calculating a cap rate applicable to July 2013. Therefore, the Respondent concluded that the evidence demonstrates that the subject is correctly classified as an "A+" Class suburban office building and the 6% cap rate applied to it in the City's assessment calculation is correct and equitable.

[22] The Respondent argued that the City's methodology for calculating cap rates has consistently been supported by many CARB and MGB decisions. She noted that the Complainant's methodology, as presented to the Board today, has been rejected by many Boards. The Respondent provided copies of CARB 72593P/2013 and CARB 72265/P-2013 in support of her position. The Respondent provided the following explanation regarding the differences in methodology between the City and the Complainant, noting that:

The Complainant is "requesting a change in capitalization rate from 6% to 6.25% based on two scenarios: First scenario is that A+ and A2/A- should warrant a different capitalization rate based on risk. The second scenario is a dispute over methodology [sic] however goes against their first scenario and uses both an A+ and A- property to determine a mean and median. A number of sales have been excluded on page 369 of the complainant's disclosure that is supposed to be a recreation of the City's analysis. The City is left guessing [sic] to the exclusion of these sales because no evidence has been provided" (R-1, p5)

"The City will provide a capitalization rate study of five A quality properties that produce a mean of 6.09% and a median of 6.09% with an assessed rate of 6.00%. The two sales nearest to the valuation date produced a capitalization rate of 6.09%. The valuation method used is determined by typical values used closest to the date of sale....." (R-1, p5)

"The City's method is to take the 'typical income from the year of sale', that is for the sales occurring in 2012 use the 2013 roll year typical income (which the valuation date is July 1st, 2012) and for the 2013 sales use the 2014 roll year typical income (which the valuation date is July 1st, 2013)." (R-1, p49)

[23] The Respondent provided a "hypothetical" matrix calculation designed to demonstrate that the City's methodologies for calculating cap rates is more "error free" than the cap rate calculations provided by the Complainant. The Respondent identified the key inputs and calculations used to create the example, and argued that this information demonstrates that the Respondent's data regarding this point leads to more accurate indications of cap rate values, contrary to the cap rate data produced by the Complainant.

Board's Reasons for Decision:**Issue [4](a):**

[24] The Board finds that the Complainant provided insufficient pictorial and other relevant market information/evidence to demonstrate that the subject is not an "A+" Class northeast Calgary suburban office building as alleged by the Complainant.

[25] The Board finds that it is difficult, if not impossible, to identify and confirm the quality of an individual building from its exterior facade, as the Complainant has proposed. It is even more difficult to determine the individual configuration and functionality of a building from its exterior presentation, and to determine comparability with the subject.

[26] The Board finds that the detailed interior and exterior photographic and lease evidence and argument advanced by the Respondent supports the City's classification of the subject as an "A+" suburban NE Calgary suburban office building.

[27] The Board finds that the Complainant provided insufficient market and/or lease evidence from his property comparables, to demonstrate that exposure to Deerfoot Trail renders a property more likely than not to be of greater value than those properties - like the subject - which do not have such exposure.

[28] The Board finds that the Complainant provided insufficient evidence to demonstrate that a building accommodating a "call centre", like the subject, is not, and cannot be an "A+" Quality suburban office building, simply because it is a call centre.

[29] The Board finds that the Respondent's five market sale property comparables, including the disputed 14505 Bannister RD SE portfolio sale, support the 6% cap rate used to assess the subject. The Board accepts that the separate appraisal completed for the Bannister RD property in its portfolio transaction was diligently analyzed by the Respondent and deemed a proper market sale to include in its cap rate analysis for suburban office buildings.

[30] The Board finds that the Respondent provided more reliable current (2013) market sales to support its calculation of the 6% cap rate, whereas the Complainant provided and relied on only two, more dated 2011 and 2010 sales, for its 6.25% cap rate request. The Board declined to accept the Complainant's arbitrary rationale for rejecting several of the Respondent's sales because they were part of a portfolio, or were subject to certain repairs. Moreover, the Board accepts the Respondent's methodology for calculating the typical cap rate as outlined in [22] above, a methodology consistently used by the Respondent for several years, and which has been accepted by several MGB Decisions (e.g. MGB 145/07, and MGB DL 019/10)

[31] The Board finds that the subject is located in a NE Calgary business park, surrounded predominantly by business, retail, and commercial activities and land uses, and is not in a classic industrial area as alleged by the Complainant. Therefore the Board considers that this factor, in part, supports the City's business area classification criteria used for such purposes as applied to the subject.

[32] The Board finds that the Complainant provided insufficient information to demonstrate that underground parking is a primary and required characteristic which defines and separates "A" class office buildings from lesser "B" and "C" class buildings. Therefore the Board concludes that the subject is properly classified as an "A+" Class building, and the Respondent has applied the correct "typical valuation" parameters, including cap rate, from similar "A+" class buildings to calculate the assessment.

[33] The Board finds that the Respondent provided sufficient information for the Board to determine that the subject is assessed correctly, fairly and equitably with other similar "A+" Class suburban office buildings in northeast Calgary.

Issue [4](b):

Complainant's Position:

[34] The Complainant argued that while he "does not deny" the subject has "excess land", and has been assessed as having "excess land" in the value of \$5,385,210, it should not have been assessed as such, primarily because other nearby comparable properties have not been similarly assessed for excess land. He argued that the City has been "sporadic" in its application of this factor to the assessments of other nearby properties, and this is inequitable. The Complainant noted that the only other site assessed for excess land that he could find, is a property at 3330 – 23 ST NE. He provided maps and diagrams of several other NE Calgary properties where he considered excess land valuations should have been applied.

[35] The Complainant argued that the \$5,385,210 value of the excess land should be deducted from the subject's assessment to reduce the overall assessment to \$26,500,000. He noted that the excess land is used by the building's employees for recreational purposes, and at the moment there are no plans to either expand the building to occupy all or part of it, or to subdivide and sell it to others.

Issue [4](b):**Respondent's Position:**

[36] The Respondent disagreed with the Complainant that other properties comparable to the subject in NE were not being assessed for excess land. She provided several examples to support her position. The Respondent also argued that it would be inequitable "in reverse", to exclude the value of the excess land from the subject, while assessing other comparable properties in the area for it.

[37] The Respondent provided a clarification on page 14 of R-1 identifying the City's valuation methodology used to arrive at the \$5,385,210 value of the subject's excess land. She noted that the City assessed the subject's 6.698 AC of excess land at the I-B zone rate of \$1,000,000 per acre for the first 3 acres and \$645,000 per AC for the remainder. The calculation she noted would appear as (3 AC = \$3,000,000 + 3.69 AC = \$2,385,210) for a total excess land value of \$5,385,210. The Respondent clarified that this value was added to the subject's assessment as a normal and standard procedure.

[38] The Respondent noted that the Complainant does not, and has not disputed that the subject has excess land, but rather, the Complainant has acknowledged the subject in fact contains excess land. The Respondent also noted that the Complainant has not argued that the City's methodology in calculating the excess land value ascribed to the subject is incorrect. She noted that neither has the Complainant challenged the per acre values of \$1,000,000 per AC and \$645,000 per AC applied to the subject, as being incorrect. Therefore, the Respondent argued, the Complainant has provided no market or other evidence to demonstrate that the excess land calculation is either incorrect, unfair, or inequitable.

Board's Reasons for Decision:**Issue [4](b):**

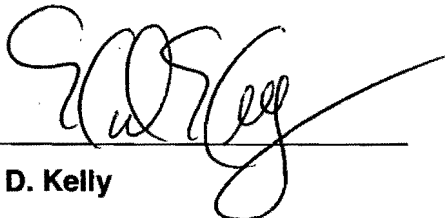
[39] The Board finds that both the Complainant and Respondent accept that the subject contains 6.698 acres of excess land valued at \$5,385,210.

[40] The Board finds that the Complainant does not dispute either the per acre values used to assess the subject's excess land, or the methodology used by the Respondent to calculate that value. The Complainant merely relies on the Board to delete the assessed excess land value based on conjecture that excess land has not been calculated for and assessed to other similar properties in the same area as the subject.

[41] The Board finds that it concurs with the Respondent that the evidence adduced in this hearing demonstrates that other similar properties in the broader locale of the subject, have been assessed for excess land like the subject. Therefore it would be inequitable to other similar properties, to subtract the excess land value from the subject's assessment as requested.

[42] The Board finds that the Complainant provided insufficient market evidence to demonstrate to the Board or Respondent that the excess land assessment calculation for the subject is incorrect or inequitable.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF JULY 2014



K. D. Kelly
Presiding Officer

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

NO.	ITEM
1. C-1	Complainant Disclosure
2. C-2	Complainant Disclosure – Rebuttal
3. R-1	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

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	commercial	Suburban office	market value	Classification; Assessment parameters; excess land