

**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS****CARB - 0203-0007/2012**

IN THE MATTER OF A COMPLAINT filed with the City of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Colliers International Realty Advisors Inc/Christopher Hartley - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

Tom Hudson, Presiding Officer

Shelley Schmidt, Member

Wayne Stewart, Member

A hearing was held on Friday, June 15, 2012 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessments of the following property tax roll numbers:

Roll No./ Property Identifier	Assessed Value	Owner
1-2-050-1103-0001 1103 5 Avenue South	\$6,645,400	Marblehead Equities Inc/ 334154 Alberta Ltd

Appeared on behalf of the Complainant:

- Troy Howell – Colliers International Realty Advisors Inc.

Appeared on behalf of the Respondent:

- Landon Wehlage, Assessor, City of Lethbridge

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a high rise multi-family apartment building located at 1103 5 AV SO. There are 59 one-bedroom suites and 19 two bedroom suites. The current assessment including land and improvements is \$6,645,400, and was prepared based on the capitalized income approach to assessment value. The requested assessment is \$5,970,000.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make decisions under Part 11 of the Act. During the course of the hearing, the parties raised the following preliminary issue which is addressed below.



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Preliminary Issue:

The respondent noted that the complainants' evidence with respect to the issue of "chronic" vacancy is the same evidence presented and rejected by the 2011 CARB adjudicating the complaint on the subject property. The respondent requested that the 2012 CARB refuse to consider the issue of "chronic" vacancy because the complainant is requesting a different outcome based on the same evidence.

The respondent also suggested that submission of the issue in the absence of new evidence amounts to an abuse of the complaint process by the complainant, and that the CARB should consider awarding costs under Section 52 of Matters Relating to Assessment Complaints Regulation MRAC 310/2009.

The complainant argued that there is additional evidence of continuing vacancy included in their submission which the 2012 CARB should consider in deciding the "chronic" vacancy issue.

Decision on the Issue:

The CARB acknowledged that the respondent had a point in asserting that expecting a different outcome when the same evidence is submitted could be futile. However, until the current evidence and testimony is considered, the CARB decided it was premature to conclude that the decision would be the same.

The CARB therefore decided that both the complainants' and respondents' evidence on the issue of "chronic" vacancy would be considered in adjudicating the 2012 complaint on the subject property. The CARB also determined that no abuse of the complaint process had occurred, and therefore awarding of costs would not be appropriate.

PART C: ISSUES

The CARB considered the complaint form together with the representations and materials presented by the parties.

Issue 1: Should a rent rate (i.e. \$730), which is less than the 2012 typical monthly market rent rate (i.e. \$775), for one bedroom suites in Lethbridge, be used in the calculation of gross operating income for the subject property?

Issue 2: Should the rate of vacancy and collection loss be increased from 11.5% to 17%, for the subject property?

ISSUE 1: Rent Rate for One Bedroom Suites

The complainant submitted the rent roll for the subject property in support of the request to reduce the monthly lease rate for one bedroom suites. There was also an April 2012

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advertisement submitted which confirmed that at that time, at least one suite was available for \$730 per month. The complainant submitted no other market or equity evidence.

The respondent submitted an analysis of monthly average rent for one bedroom suites in Lethbridge, during the period from June 2009 to April 2011. The averages ranged from a high \$767 in August of 2010, to a low of \$744 in September of the same year (page 5 of Exhibit R1).

In addition the respondent presented four comparable properties with monthly one bedroom rents ranging from \$749 to \$801. Including the subject's average of \$760; the average was \$781 per month. (page 6 of R1).

In rebuttal, the complainant submitted photograph of the properties considered comparable by the respondent; arguing that they were low rise buildings and not similar to the subject high rise building (pages 4-8 Exhibit C2).

Decision: Issue 1

The CARB finds no compelling evidence to indicate that the typical monthly market rent of \$775 should be reduced to \$730, in order to calculate the assessment of the subject property. The average rent in the subject property is \$760 per month, and the complainant did not submit market evidence to demonstrate a difference in rent rates for one bedroom suites between low and high rise multi family properties in Lethbridge.

ISSUE 2: Vacancy and Collection Loss

The complainant submitted a historical record of average monthly vacancy for the subject property for the period June 2009 to April 2011 (page 13 of Exhibit C1). The average for the period was 17.2%. As further support, the complainant submitted the rent rolls for the same period (pages 14-60 Exhibit C1). The complainant argued that this evidence proves that the subject property suffers from "chronic vacancy" in excess of typical vacancy and therefore the vacancy rate should be set at 17%.

The respondent pointed out that the 2012 typical assessed rate for vacancy and collection loss for multi-family apartment properties in Lethbridge is 9% (page 7 Exhibit R1). There was also further evidence that this rate is higher than the actual market vacancy rate of 6.8% in Lethbridge, reported by Canadian Mortgage and Housing Corporation (CMHC), in the Fall of 2011 (page 8 Exhibit R1).

The respondent further noted that the decision of the 2011 CARB (i.e. CARB-0203-0003/2011) added 2.5% to the then typical rate of 5% to compensate for the "cost to cure" ten vacant suites in the subject property. That decision has been respected in the current assessed rate of 11.5%.



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Decision Issue 2:

The CARB finds that the current assessed rate of 11.5% for vacancy and collection loss is appropriate. Although the evidence of the complainant shows a negative trend in the vacancy rate for the subject property, the CARB is not convinced that the vacancy can yet be considered "chronic" for assessment purposes.

PART D: FINAL DISPOSITION OF COMPLAINT

The complaint is denied and the assessment is confirmed as follows.

Roll No./Property Identifier	Value as set by the CARB	Owner
1-2-050-1103-0001 1103 5 Avenue South	\$ 6,645,000	Marblehead Equities Inc/ 334154 Alberta Ltd

It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this 13th day of July, 2012.

Wayne Stewart, ARB Member
Signed on behalf of - Tom Hudson, Presiding Officer



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APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

NO. ITEM

1. C1 Complainant Disclosure
2. C2 Complainant Rebuttal
3. R1 Respondent Disclosure

APPENDIX 'B'

ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

1. Mr. Troy Howell, Agent, Colliers International, for the Complainant
2. Mr. Landon Whelage, Assessor City of Lethbridge, for the Respondent

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Subject	Type	Sub-type	Issue	Sub-issue
CARB	Residential	Multi- family	Market rent	Vacancy