



**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0013/2012

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:

MNP LLP - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

Paul Petry, Presiding Officer

Wayne Stewart, Member

Shelley Schmidt, Member

A hearing was held on Thursday, June 28, 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
1-2-040-0614-0001 614 4 Avenue S	\$5,652,000	ACP Holdings Inc.

Appeared on behalf of the Complainant:

- Giovanni Worsley, MNP LLP

Appeared on behalf of the Respondent:

- Verle Blazek, Assessor, City of Lethbridge

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is the Royal Bank building in downtown Lethbridge. This is a modern three story bank and office complex containing approximately 41,000 square feet of rentable area including basement space. The Royal Bank leases the first and second floors of the building and the third floor is leased to other tenants. The concerns raised in this complaint relate to the rental rates, equity and vacancy allowance.

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The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

PART C: ISSUES

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised in this complaint form are as follows:

Issue 1: Do the rental rates applied by the Assessor produce a correct, fair and equitable assessment for the subject property?

Issue 2: What is the appropriate vacancy allowance for the subject property?

Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB) on March 26, 2012. The only issues however, that the parties sought to have the Composite Assessment Review Board (CARB) address in the hearing on July 18, 2011 are those referred to above, therefore the CARB has not addressed any of the other matters or issues initially raised by the Complainant.

ISSUE 1: Rental Rates**Summary of the Position of the Parties**

The Complainant explained that the Assessor had mistakenly assigned a \$10.00 per sq. ft. rental rate to 3,357 sq. ft. of basement space that should have been set at a rate of \$3.00 per sq. ft. Similar space within the subject and other comparables have been assessed at \$3.00 per sq. ft. The Complainant indicated that it believes the Assessor will support the proposed change to \$3.00 per sq. ft.

The Complainant further argued that current leasing of the third floor is at a rate of \$11.00 per sq. ft. and therefore as there typically would be no differential between the second and third floors the assessed rate for the second floor should be reduced from the current rate of \$12.00 per sq. ft. to \$11.00 per sq. ft. In support of this position the Complainant provided a table of second floor and above leases in comparable buildings showing lease rates with a median rate of \$11.00 per sq. ft. and also a table of 2010 – 2011 leases showing a median rate of \$11.50 per sq. ft. Based on these comparables and other examples the Complainant proposed that all space above the first floor be assessed at a rental rate of \$11.00 per sq. ft.

The final rental rate in dispute was that assigned by the Assessor to the first floor which is occupied by the the Royal Bank. The Assessor applied the actual lease rate of \$20.50 per sq. ft. The Complainant argued that this rate is not equitable nor representative of typical. The Complainant argued that the most obvious example of inequity is that of the Bank of Hong Kong that is located only one block east of the subject and is assessed at a rate of only \$16.00 per sq.



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ft. This is ground floor space with a corner location similar to the subject and is leased for \$12.00 per sq. ft. The Complainant provided other examples of ground level lease rates ranging from \$12.00 - \$19.00 per sq. ft. with the Bank sub-group showing rates ranging from \$12.00 - \$20.50, the top rate being that of the subject. The Complainant argued that the rental rate for the main floor of the subject should be equal to the \$16.00 per sq. ft. rate assigned to Bank of Hong Kong space but in any case it should not exceed a rate of \$18.00 per sq. ft.

The Respondent agreed with the Complainant that 3,357 sq. ft. of basement space had been wrongly assessed at the \$10.00 rate and should have been assessed at the \$3.00 rate. The Respondent indicated that it would recommend that the CARB accept this change which would alter the Assessment downward by \$257,000.

With respect to the second floor of the subject the Respondent argued that this space is different than the space the Complainant cites as comparables. The Royal Bank occupies this space and it is integrated with the space on the first floor. The access to the second floor is through the main floor Royal Bank space by way of a large stairway while the second floor is accessible by elevator from the building lobby. The Respondent argued that in this case the second floor is premium space, it is leased at a rate of \$12.00 per sq. ft. and that rate would be typical for such space.

The Respondent agreed that rental rate for the ground floor space is based on the actual rate but this is dependable for the following reasons. The building is branded as the Royal Bank Building even though the Royal Bank no longer owns the building. The building is in a class of its own based on location, quality of construction, parking facility and relatively new modern design. The Respondent did not present comparable space with comparable rates and argued that the Bank of Hong Kong assessment is not comparable. The Respondent suggested that the Bank of Hong Kong is not of the same quality or finish, it is in a building with high and chronic vacancy and parking is very limited. Through questions of Respondent it became clear that if the rate of \$20.50 per sq. ft. were found to be high, that an alternate rate should not be less than \$18.00 per sq. ft. The Respondent also indicated that revenue from the subject building's parkade has not been included at this point and therefore the assessed revenue likely understates the actual. Finally the subject building sold for \$3.1 million in 2001. General experience shows that many buildings have doubled in value over the last ten years. If that general experience is true of the subject then the assessment is in the right range of values.

Decision: Issue 1

- The CARB agrees that the 3,357 sq. ft. of basement space should have been assessed at \$3.00 per sq. ft. and will make this correction.
- The rental rate for the second floor space will remain at a rate of \$12.00 per sq. ft.
- The rental rate for the main floor will be reduced to a rate of \$18.00 per sq. ft.



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Reasons

In the first instance the correction of the rate to \$3.00 per sq. ft. for 3,357 sq. ft. of basement space was agreeable by both parties and the assessed rate of \$10.00 per sq. ft. was an obvious error.

The CARB carefully reviewed the Complainant's arguments and comparable lease rates. While the data would appear to support an \$11.00 rate there is insufficient information about each comparable to determine the degree of similarity. The subject space is premium space in a new high quality building. This space is fictionally integrated with the main floor space and therefore may be more valuable from that perspective. For these reasons the CARB is not prepared to alter the rate for the second floor space.

The Complainant argued that the rate assigned to the main floor space was both inequitable and not justified rates paid for similar space. Having reviewed the evidence the CARB agrees with the Complainant on these points. The Respondent argued that the Royal Bank Building is in a class of it's own and because of it's location and premium quality and finish the actual lease rate of \$20.50 should be viewed as representative of typical in this case. In the final analysis both parties appeared to be supportive of an \$18.00 rate which also appeared to be reasonable considering the evidence before the Board. The CARB did not place great weight on the Bank of Hong Kong space as this space is not of the same quality and parking is limited. A rate of \$18.00 per sq. ft. for the main floor space was found to be correct fair and equitable.

ISSUE 2: Vacancy Allowance

Summary of the Position of the Parties

The Complainant had undertaken a review of both downtown and suburban office space vacancy. This analysis was based on an inventory of rentable space within buildings where data was available to the Complainant. The total sq. ft. of vacant space within the eleven downtown buildings was divided by the total rentable area of those buildings to produce a vacancy rate of 11.5%. A similar approach was used for six suburban office buildings producing a vacancy rate of 9.2%. It was acknowledged that the downtown vacancy rate included 29,280 sq. ft. of vacant space in the BLT Building and that much of this space has been vacant for a very long time. Nevertheless, it was argued that the fact that this space is still on the market results in higher than normal vacancy in general. The Complainant argued that the Assessor's application of an allowance of 5% was inadequate and requested that the CARB adjust the vacancy allowance to 11%.

The Respondent argued that the inclusion of the large amount of vacant space in the BLT building skews the results found by the Complainant and therefore it's study is not valid. The Respondent indicated that vacancies are not abnormally high if the BLT Building is excluded and the 5% allowance has been equitably applied to all downtown office properties. The Respondent pointed out that the subject space is very desirable space and currently has no vacant space except for basement storage areas. The Respondent requested that the Board confirm the vacancy allowance at 5%.



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Decision: Issue 2

The CARB has decided not to alter the current vacancy allowance of 5%.

Reasons

The CARB has reviewed the Complainant's vacancy study and is not convinced that the BLT Building vacancy has the type of general impact suggested by the Complainant. If the BLT data is removed it would appear that the balance of the Complainant's data would reflect a vacancy of approximately only 6%. The CARB agrees with the Respondent that the BLT Building vacancy appears to be more isolated to that property and this is borne out through the experience of the subject. The typical vacancy allowance of 5% therefore will not be altered by the CARB in this case.

PART D: FINAL DISPOSITION OF COMPLAINT

The findings above result in the following changes:

- 3,357 sq. ft. of basement space has been reduced from a rental rate of \$10.00 per sq. ft. to a rate of \$3.00 per sq. ft.
- The rental rate for the 11,403 sq. ft. of main floor space has been reduced from \$20.50 per sq. ft. to \$18.00 per sq. ft.
- No other changes have been made to the income pro-forma as set out by the Assessor.

The complaint is therefore allowed in part and the resulting value is shown below.

Roll No./Property Identifier	Value as set by the CARB	Owner
1-2-040-0614-0001 614 4 Avenue S	\$5,084,000.00	ACP Holdings Inc.

It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this 17th day of July, 2012.

Paul Petry, Presiding Officer



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APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

NO. ITEM

1. Exhibit C-1 Complainant's Submission
2. Exhibit C-2 Complainant's Rebuttal
3. Exhibit R-1 Respondent's Submission

An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:

470(1) *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.*

470(2) *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).*

470(3) *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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Subject	Type	Sub-type	Issue	Sub-issue
CARB	Office	Bank and Other	Income Approach	Rental Rate/Vacancy