



**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0003/2011

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 Advisor Inc - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

Rob Irwin, Presiding Officer

Bill LeLievre, Member

Shelley Schmidt, Member

A hearing was held on Wednesday, July 20, 2011 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessments of the following property tax roll number:

Roll No./ Property Identifier	Assessed Value	Owner
1-2-050-1103-0001 4353S;39;1	\$6,885,600	Marblehead Equities Inc

Appeared on behalf of the Complainant:

- Michael Uhryn, Colliers International

Appeared on behalf of the Respondent:

- Lance Wehlage, Assessor, City of Lethbridge
- Otchere Bedikao, Assessor, City of Lethbridge

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 10 storey multifamily apartment building located at 1103 5 Ave S. Lethbridge Alberta. There are 59 one bedroom suites and 19 two bedroom (78 units in total)

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PART B: PROCEDURAL or JURISDICTIONAL MATTERS

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 on the complaint form are as follows:

Section 4 of the Assessment Review Board Complaint Form indicates Box 3 an assessment amount is the only matter that applies to the complaint. It is also indicated that the municipality had complied with sections 299 and 300 of the Municipal Government Act.

ISSUE 1: An Assessment Amount

The requested assessed value on the form was \$5,700,000

Revised Requested Assessment: \$6,520,000.

Board Findings:

The Complainant took the position that the actual vacancy rate in the subject property should be applied to the assessment and that the increasing vacancy rate indicated that the subject property should be considered as being in a state of chronic vacancy.

In support of the request the Complainant presented a series of rent rolls from May 2009 to 31 Jan 2011 as well as a chart depicting an increasing vacancy rate since 2009. The Complainant concluded with requesting the Board alter the vacancy rate from the 5% vacancy rate applied by The City of Lethbridge and apply a 13% Vacancy rate that would result in the " Requested Assessment" of \$6,520,000.

The Respondent presented evidence of local Lethbridge comparable properties as well as CMHC Reported Vacancy Rates for Lethbridge and other Alberta Cities and concluded that they supported the City of Lethbridge application of a 5% vacancy rate for assessments. The Respondent also focused on the Complainant's Rent Roll documents. Attention was drawn to the actual number of vacant units in June and August 2009 and July 2010, regarding partial month occupancies and no rent occupancy calculated as vacant.

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The Respondent proceeded to explain that in response to the Complainant stating the property was in a chronic vacancy situation raised some concerns. As a result of a recent site visit to the subject property. It was explained that the property does appear to have fallen into a state of disrepair. He suggested that the subject property should be considered in below average condition.

Units were viewed where major renovations have been initiated but work has not proceeded past demolition stage. It was reported that some units had all the bathroom and kitchen cabinets and plumbing fixtures had been stacked in the living rooms for up to 8 months. It was stated that the suites could not possibly be rented in their current condition and this certainly contributes to the vacancy situation in the subject property.

The assessor stated that there appeared to be many basic required repairs completed as soon as possible by a management team that would want the units on the market and producing income. There were also many other repairs needed to bring the property to a level of quality considered, comparable of a typical property in this stratum. This would include items above normal annual maintenance and upkeep.

Capital Cost items would include flooring, cabinets, plumbing fixtures and paint. Appliances would also require attention and possible replacement.

It was stated that the estimated "Cost to Cure" could total plus/minus \$15,000 x 10 vacant units at time of site visit totaling \$150,000.

The Assessor continued by stating that in consideration of the condition of this building and in an attempt to be more than fair to the taxpayer the Board consider an assessment of \$6,704,000 be set.

Decision: Issue 1

In view of the above considerations, the CARB finds as follows with respect to Issue 1:

The Complainant submitted that the only issue in contention was the vacancy rate used to assess the property. The evidence presented did not convince the CARB that the Municipality had applied the 5% rate incorrectly or unfairly.

The Board rejects the Complainant's request that the subject property be considered as being in a state of chronic vacancy.

The Board agreed that to be considered as having a chronic vacancy in a property, there are criteria to be met. The vacancy in the building must be higher than is typical for a similar building in the municipality, the vacancy must continue for a protracted



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period of time and it must be proven with substantive evidence by the party claiming to be affected by the chronic vacancy. Chronic high vacancy occurs for a variety of reasons, but the Appellant did not provide persuasive evidence to show the subject property suffered from a chronic vacancy in the assessment year.

The Board also noted the Respondent's position that whether the condition of the property affected the reality of being able to be rented. That could influence the vacancy rate versus a typical budgeted and expected vacancy rate due to market conditions.

The CARB considered all the evidence and testimony relating to condition of the subject property and agreed to accept the revised assessment proposed by the City of Lethbridge because of the estimates of Cost to Cure the deficiencies in the subject property.

PART D: FINAL DISPOSITION OF COMPLAINT

The complaint is denied and the assessments are set as follows.

Roll No./Property Identifier	Value as set by the CARB	Owner
1-2-050-1103-0001 4353S;39;1	\$6,704,000	Marblehead Equities Inc

It is so ordered.

Dated at Carstairs in the Province of Alberta, this 04th day of August

Presiding Officer

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1. Exhibit C1 – Colliers International Submission
2. Exhibit R1 – City of Lethbridge Submission

APPENDIX 'B'**ORAL REPRESENTATIONS****PERSON APPEARING CAPACITY**

1. Michael Uhryn, Colliers International
2. Lance Wehlage, Assessor, City of Lethbridge
3. Otchere Bedikao, Assessor, City of Lethbridge
4. Wendy Smith, Assessment Review Board Clerk, City of Lethbridge

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Column 1	Column 2	Column 3	Column 4	Column 5