



Composite Assessment Review Board

REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 007-2011

IN THE MATTER OF A COMPLAINT filed with the Regional Municipality of Wood Buffalo 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:

Fairtax Realty Advocates - Complainant

- a n d -

Regional Municipality of Wood Buffalo - Respondent

BEFORE:

Members:

Patricia Mowbrey, Presiding Officer

D Kerr, Member

Board Administration:

Nicole MacDonald, Assessment Review Board Clerk

Audrey Rogers, Senior Legislative Officer

A hearing was held on August 11, 2011 at the Jubilee Centre, 9909 Franklin Avenue, Fort McMurray, in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider a complaint about the assessment of the following property tax roll number:

Roll No./ Property identifier	Assessed value	Owner
40557070 Lot 84A Block 13 Plan 8821408	\$3,662,500	Artis Fort McMurray Portfolio Ltd.

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a one storey retail shopping centre located at 100 Signal Road, Fort McMurray, close to a major road way in a commercially developed area. The property was previously a Saan store, a single occupant, but has been retrofitted for the occupancy of two tenants, Your Dollar Store With More and The Canadian Back Institute Ltd, each occupying 7,000 sq ft.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make decisions under Part 11 of the Act.

PROCEDURAL MATTER

The Presiding Officer questioned the parties if there was any objection to a two member Board and if there was any objection to the composition of the Board. There was no objection. The Board members indicated there was no bias to the file.

PRELIMINARY MATTER

Position of the Respondent

The Respondent brought forward a preliminary matter requesting that the rebuttal evidence, C1, including a Building Condition Assessment Report, submitted by the Complainant, be excluded because it raises a new issue not included in the Complaint Form or the disclosure evidence. The Respondent argued that the issue of deferred maintenance was not disclosed and referred to section 9 (1) of *Matters Relating to Assessment Complaints* (MRAC) and requests the Board to exclude the deferred maintenance as an issue.

The Respondent stated that a second part of the Rebuttal evidence introduced new evidence which was post facto lease rate information and requested that information be excluded.

Position of the Complainant

The Complainant explained that the Building Condition Assessment Report was submitted with the Complaint Form, and that market rent was stated as an issue. The Complainant indicated the Building Condition Assessment Report was completed in 2007 but, none of the deferred maintenance items in the report had been completed to date, subsequently the Report was not included in the disclosure evidence as it had been included with the Complaint Form. The Complainant stated the Report and the deferred maintenance had not been mentioned in the Respondent's disclosure evidence so the Complainant included it again as part of the Rebuttal evidence to ensure it was considered.

The Complainant recognized that the lease rate information was effective after the date of valuation, June 30, 2010, or post facto.

Decision

The Decision of the Board is to allow the Complainant's Rebuttal as evidence, C1, regarding the Building Condition Assessment Report, but to disallow the lease rate evidence as it was effective after the valuation date, and considered post facto.

Reasons

1. The Board notes the Building Condition Assessment Report was included with the Complaint Form although deferred maintenance was not specifically listed as an issue. The deferred maintenance directly affects the value of the building and is considered a part of the Income Approach to Value which was the approach applied to the subject property to derive the assessment value. Therefore, it is reasonable to understand why the report was included with the Complaint Form.
2. The Board referred to MRAC section 9 (1), which states “*A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form*”. The Board is of the opinion the issue was included on the Complaint Form and is, therefore, not considered a new issue.
3. The Board could not consider the lease rate information as it was effective after the date of valuation of June 30, 2010.
4. The Board places great importance on a fair and open hearing and proceeded with the merit hearing.

ISSUES

The Complainant raised the following specific issues in section 5 of the Complaint Form:

1. Is the lease rate typical for the tenants of the older reconfigured subject building as reflected in the assessment?
2. Does the assessment take into account the deferred maintenance as listed in the Building Condition Assessment Report?
3. Is vacancy shortfall considered in the valuation for assessment?

LEGISLATION

The *Municipal Government Act*, R.S.A. 2000, c. M-26;

S.467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

S.467(3) An assessment review board must not alter any assessment that is fair and equitable taking into consideration

- a) the valuation and other standards set out in the regulations,*
- b) the procedures set out in the regulations, and*
- c) the assessments of similar property or businesses in the same municipality.*

POSITION OF THE COMPLAINANT

The Complainant attended the hearing and presented evidence C1, and C2 with rebuttal and argument for the Boards review and consideration. The subject property is known as Signal Road Shopping Centre.

The Complainant explained the subject building is an older building constructed in 1988. It was previously occupied by one user, the Saan Store. The building has been retrofitted for two current tenants, Your Dollar Store With More and Canadian Back Institute Ltd, occupy 7,000 sq ft each at lease rates of \$19 and \$20 per sq ft respectively.

The Complainant stated the lease rates achievable in this older building with deferred maintenance issues are lower than the typical market rents of \$24.50 that were used in the valuation for assessment purposes. The Complainant included as evidence, C2, rent rolls and lease rates for seven (7) shopping centre's with a total of 172,127 sq ft of space located in Fort McMurray and owned by the Complainant.

The Complainant provided an engineer's Building Condition Assessment Report from Pinchin Environment Ltd, C1, which was completed in 2007 and lists the deferred maintenance items for the building in the amount of \$249,995 of which the major cost was for components for a roof replacement at \$165,000. The Complainant stated the deferred maintenance items have not been completed and remain outstanding to date. The Complainant requested the deferred maintenance costs be deducted from the 2011 Assessment.

The Complainant proposed several calculations for the 2011 Assessment including a vacancy shortfall factor and requested these be considered by the Board. The Complainant referred to the Respondent's evidence and remarked it provided only evidence of the model methodology that was used for market analysis, but there was no other information and no comparables to reveal the typical lease rates used in the assessment.

The Complainant ultimately requested a 2011 Assessment as demonstrated in C1, page 3, in the amount of \$3,412,669. The amount accepts the \$24.50 lease rate, with no allowance for vacancy shortfall, and applies the deduction of the deferred maintenance of \$249,995.

POSITION OF THE RESPONDENT

The Respondent attended the hearing and presented evidence R1, R2 and R3. The Respondent reviewed the valuation by mass appraisal methodology, and indicated the income approach to value had been utilized in the valuation for the subject assessment with typical market rents for properties similar to the subject. The Respondent also noted that a higher capitalization rate of 8.5% was applied to reflect the older building, as well as a 5% structural allowance.

The Respondent stated the Municipality follows a process of gathering lease rate information annually from property owners which is analyzed to determine typical market rents and the Municipality is restricted by the *Freedom of Information Act* to release or provide comparable information provided to the Municipality in confidence. The Respondent remarked that the

Complainant had not provided any evidence with respect to typical market conditions or typical lease rates similar to the subject property at the time of valuation.

The Respondent indicated the engineer's Building Condition Assessment Report had been included with the Complaint Form but it was not indicated how it was being used. It was also included as Rebuttal evidence, C1, where the total of the deferred maintenance items were deducted from the 2011 Assessment amount. The Municipality is of the opinion the report outlined some minor deficiencies that needed to be addressed but otherwise indicated the subject property was in satisfactory condition and in comparable standing with other similar commercial properties in the area and that no further recognition outside the 5% structural allowance was necessary.

The Respondent explained that vacancy shortfall is not applied to any property in the assessment base, and allocating it to the subject property would create an inequity in the subject assessment when compared to other similar properties.

FINDINGS

1. The lease rate is typical at the valuation date of June 30, 2010, for the subject property and is supported by lease rate comparables.
2. The assessment did not consider the deferred maintenance costs as listed in the Building Condition Assessment Report.
3. The vacancy shortfall should not be applied to the subject property.

DECISION

The Decision of the Board is to reduce the 2011 Assessment from \$3,662,664 to \$3,497,664, which reflects the deduction of the cost of the components for the roof replacement of \$165,000.

REASONS

1. The Board reviewed the Complainant's evidence C1 and C2, and the Respondent's evidence R1, R2, and R3.
2. The Board is aware that the Respondent is legislated to prepare assessment values by mass appraisal methodology, R1, pages 2 and 3.
3. The Board noted the income approach to value applying typical market rents was used to value the subject property for the 2011 Assessment and considers this an appropriate method of valuation, R1, pages 4 and 5.
4. The Board accepted the rent rolls and lease rates, C2, provided by the Complainant for the seven (7) shopping centers owned by the Complainant, as market evidence. The Board excluded the distinctly newer shopping centre, called Eagle Ridge, from the review

of standard CRU space in a shopping centre. Considering about 22 either new or renewed leases in the years 2008, 2009 and 2010, the approximate range of lease rates was from \$22 to \$35 per sq ft with an average lease rate of \$29 per sq ft., and considering only the seven (7) leases either new or renewed in the year 2010, the approximate range of lease rates was from \$22 to \$35 per sq ft and also had an average lease rate of \$29 per sq ft. These recapped lease rates support the lease rate of \$24.50 per sq ft. applied to the subject property as a typical lease rate. The lease rates of \$19 and \$20 per sq ft, currently in effect for the two (2) tenants, were excluded from the review as they were 2006 leases and were expiring at December 31, 2010, and January 01, 2011 respectively, and were not considered comparable as current market lease rates.

5. The Board reviewed the Building Condition Assessment Report, C1, which was completed by Pinchin Environmental Ltd. in 2007 for the Saan Store. The Board heard evidence from the Complainant that the deferred maintenance items had not been completed to date and as such would reduce the value of the property. The Board noted the major item of deferred maintenance were the components of the roof replacement at a cost of \$165,000. The Board is of the opinion that the standard 5% structural allowance for deferred maintenance was not sufficient to account for the cost of the roof replacement and is of the opinion this item would reduce the value of the property. Therefore, the Board deducted the roof replacement cost of \$165,000 from the 2011 Assessment of \$3,662,664 for a reduced 2011 Assessment of \$3,497,664.
6. The Board recognizes that the application of vacancy shortfall is not appropriate to be applied to the subject property as it is not applied by the Municipality to any property being assessed and would cause an inequity.
7. The Board finds the reduced 2011 Assessment of \$3,497,664 is fair and equitable.

It is so ordered.

Dated at the City of Edmonton, in the Province of Alberta, this 09 day of September, 2011.


P. Mowbrey, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

NO. ITEM

1. Exhibit C1 – Complainant’s Evidence
- 2 Exhibit C2 – Complainant’s Evidence
3. Exhibit R1 – Assessment Brief
- 4 Exhibit R2 – Law and Legislation
5. Exhibit R3 - Appendix

FOR ADMINISTATIVE USE ONLY

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Retail	Strip Plaza	Income Approach	Lease rates
				Deferred Maintenance
				Vacancy Shortfall