



**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB-0217-004/2014

IN THE MATTER OF A COMPLAINT filed with the City of Medicine Hat 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:

Prairie Schooner Motels Ltd. - Complainant

- a n d -

City of Medicine Hat - Respondent

BEFORE:

Members:

M. Vercillo, Presiding Officer

D. Knutson, Member

T. Hurlbut, Member

A hearing was held on October 28, 2014 in the City of Medicine Hat, in the Province of Alberta to consider a complaint about the assessment of the following property tax roll number:

Roll Number	Property Address	Assessed Value
115725	1865 Dunmore Road SE, Medicine Hat, AB	\$2,887,020

Appeared on behalf of the Complainant:

- W. Melhem, Agent, MNP LLP

Appeared on behalf of the Respondent:

- J. Allan, City Assessor, City of Medicine Hat
- B. Osadchy, Assessor, City of Medicine Hat

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject is a two-storey retail/office commercial property that contains one improvement and has a zoning designation of "Local Neighbourhood Commercial" (C2 - Strip Mall). According to the information provided, the building has an assessable area of 12,522 square feet (sf) on the main floor and upper floor, was constructed in 1976, and is situated on an assessable land area 16,201 sf.



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The subject is assessed using the Income Approach to value, using the following building quality areas and net rental rates:

- 1) "Retail – Good" – 6,197 sf @ \$9.68 per sf,
- 2) "Restaurant – Average" – 3,239 sf @ \$14.12 per sf,
- 3) "Office – Good" – 3,170 sf @ \$12.76 per sf, and
- 4) "Office (above main) – Good" – 12,553 sf @ \$8.53 per sf.

The income calculation includes allowances for vacancy of 4.00%, management costs of 3.00% and structural costs of 2%. The net income calculated is then capitalized for assessment purposes using a capitalization rate (cap rate) of 8.00%.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make this decision under Part 11 of the Act. No procedural or jurisdictional 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:

Issue 1: The assessment amount is not reflective of the correct application of the assessment range of key factors and variables, which include location, parcel size, improvement size, land use and influences.

Issue 2: The assessment amount is not reflective of the correct application of the comparison or income approach to value. The municipality has failed to recognize the negative influences including but not limited to location, zoning, building area, physical condition or parking.

Issue 3: The assessment amount is neither fair nor equitable relative to similar properties in the same jurisdiction.

However, during the hearing, the following issues were addressed:

ISSUE 1: The assessment amount is not reflective of the correct application of the income approach to value. The municipality has failed to apply to correct building areas and respective net rental rates.

The Complainant provided a 98-page document entitled "Complainant Disclosure" that was entered into the hearing as "Exhibit C1". The Complainant along with Exhibit C1 provided the following evidence and argument with respect to this issue:

- 1) Argument that the subject has a net leasable area (NLA) of 21,058 sf, which should be reflected in the subject's assessment rather than the total area of 25,159 utilized by the Respondent.

- 2) Two rent roll documents dated July 31, 2013 and May 14, 2014, indicating the subject's tenant names, usable sf (totaling 21,058 sf), lease terms, rent rates and annual rent totals. Utilizing the two rent rolls actual net rental rates and making adjustments for actual vacancy and gross rental rates, the Complainant calculated an indicated value of \$2,155,680 using the same IA parameters utilized by the Respondent.
- 3) A chart of three office lease listings with building areas ranging from 775 sf to 3,333 sf and lease rates ranging from \$7.00 to \$8.00 per sf, with a median of \$7.50 per sf.
- 4) A chart of three restaurant lease listings with building areas ranging from 1,363 sf to 12,930 sf and lease rates ranging from \$8.00 to \$10.43 per sf, with a median of \$8.00 per sf.
- 5) A chart of two office leases on the subject's main floor considered market typical by the Complainant, with building areas ranging from 3,165 sf to 3,190 sf, both with five-year lease terms with lease start dates ranging from September 1, 2013 and February 1, 2014. The median lease rate derived was \$9.25 per sf.
- 6) A chart of four office leases on the subject's upper floor considered market typical by the Complainant, with building areas ranging from 635 sf to 1,991 sf, with lease terms ranging from three to five years, and lease start dates ranging from April 1, 2011 to January 1, 2014. The median lease rate derived was \$7.75 per sf.
- 7) A copy of a marketing brochure from Felesky Commercial Realty Ltd. advertising a 1,237 sf second floor space for the subject property with an asking base rent rate of \$10.00 per sf.
- 8) Utilizing the subject's actual lease rates that were considered market typical and useable building area (totaling 21,058 sf), the Complainant applied net rental rates to building areas as follows:
 - a) "Restaurant" – 3,203 sf @ \$9.25 per sf,
 - b) "Retail/Office" – 7,875 sf @ \$9.25 per sf, and
 - c) "2nd Floor Office" – 9,980 sf @ \$8.00 per sf.

The Complainant calculated a requested value of \$2,078,350 using the same IA parameters utilized by the Respondent.

The Respondent provided a 7-page document entitled "Response Issues" that was entered into the hearing as "Exhibit R1" and a 144-page document entitled "2014 CARB" that was entered during the hearing as "Exhibit R2". The Respondent along with Exhibits R1 and R2 provided the following evidence and argument with respect to this issue:

- 1) Argument that the NLA utilized by the Complainant in its IA excludes the foyer, washrooms, stairwells and storage spaces of the subject. To exclude these spaces in the subject's assessment would create an inequity with the assessments of other comparable properties.
- 2) Argument that that five of the six offices and restaurant lease listings utilized by the Complainant are not comparable to the subject restaurant and office spaces.
- 3) Argument that the Complainant is mixing actual rents of the subject with typical vacancy and non-recoverable expenses found in the market, which many CARB and Court of Queen's Bench rulings have determined is a flawed approach and leads to inequitable results.
- 4) A narrative that net rental rate data was gathered from 562 rates, compiled from 245 RFI's. Those net rental rates were stratified across twenty-two property groups, and further

stratified across quality ratings (Poor, Fair, Average, Good, and Excellent), resulting in a total of seventy-five sub-groups. Typical net rental rates for a particular property group were then established from the median rate within each quality and tenant area size.

CARB Findings:

In view of the above considerations, the CARB finds as follows with respect to this issue:

- 1) The Respondent did not provide any detailed information as to how the median net rental rates applied in its IA valuation were established (i.e., sample size and range within each property group, quality rating and tenant size), however during questioning the following was revealed:
 - a) "Retail – Good" had a sample size of 58, with a net rental rate range of \$6.36 to \$17.44 per sf,
 - b) "Restaurant – Average" had a sample size of 4, with a net rental rate range of \$9.91 to \$16.07 per sf,
 - c) "Office – Good" had a sample size of 32, with a net rental rate range of \$5.84 to \$36.98 per sf, and
 - d) "Office (above main) – Good" had a sample size of 39, with a net rental rate range of \$4.07 to \$13.10 per sf.

PART D: FINAL DISPOSITION OF COMPLAINT

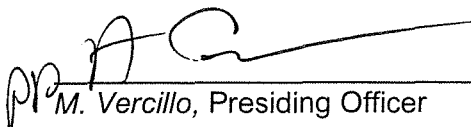
The complaint is denied and the assessment is confirmed at \$2,887,020.

The CARB provides the following reasons for the decision:

- 1) There was insufficient evidence provided by the Complainant to support a reduction to the assessment. The onus or burden of proof lies with the Complainant to demonstrate that either the assessment is incorrect, or provide enough information supported by market evidence that may cast doubt on the assessment, or that the Complainant's alternative value more accurately approximates fair market value. The Complainant provided its own opinion of value by using site-specific income in its IA valuation. Assessments are calculated by using standard methods and common data derived from a market analysis of similar properties. The site-specific nature of the Complainant's analysis failed to provide any market typical net rental rates, which is necessary for market-based assessment valuation. Moreover, the site-specific valuations of the Complainant considered the subject's leasehold interest rather than the required fee simple interest value of the property.

It is so ordered.

Dated at the City of Medicine Hat, in the Province of Alberta, this 6th day of November, 2014.



M. Vercillo, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

NO. ITEM

- | | |
|-------|--------------------------|
| 1. C1 | Complainant's Disclosure |
| 2. R1 | Respondent's Disclosure |
| 3. R2 | Respondent's Disclosure |

APPEAL

Decisions of the CARB are subject to appeal to the Alberta Court of Queen's Bench on questions of law or jurisdiction under Section 470 of the Act.

CARB - 0217-004/2014 Roll #115725**(For MGB Office Only)**

Subject	Type	Sub-type	Issue	Sub-issue
CARB	Office/Retail	Stand Alone	Income Approach	Net Market Rent/Lease Rates