

**CITY OF BROOKS, ALBERTA
COMPOSITE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

Brooks Rentals Ltd., COMPLAINANT

and

The City of Brooks, RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

Bevin Keith, MEMBER

Noel Moriyama, MEMBER

This is in reference to complaints to the City of Brooks Assessment Review Board in respect of Property assessments prepared by the Assessor for the City and entered in the 2012 Assessment Roll as follows:

Roll Number	Assessment	Location
043-0339100	\$ \$56,190	208 1st Street West
043-0339200	\$ 399,450	116 2 Avenue West

Appeared on behalf of the Complainant:

- Hugh Bevan and Terry Troidls

Appeared on behalf of the Respondent:

- Carol Megaw, Assessor

Assisting the Board – Amanda Kowalchuk, Assessment Review Board Clerk.

Property Description and Background

The property assigned to roll number 043-0339200 consists of two lots 39 and 40 and is improved with a one-storey office building containing 5,123 square feet of rentable area. This property faces 2nd Avenue West. The second roll number, 043-0339100 consisting of lots 37 and 38 is located directly to the rear of the office building with frontage on 1st Street West. Lots 37 and 38 are not improved but are used for parking in support of the office building next door. The parties agreed to have the complaints respecting these two properties heard together as much of the Complainant's evidence is intermingled and both parties have introduced argument concerning the relationship between the assessments of the two roll numbers in question. The office building property, roll 043-0339200 has been assessed using the capitalized income approach to value and the vacant land next door has been assessed using the direct sales comparison method.

Issues

1. Is the vacancy allowance of 7% used in the net income capitalization calculation adequate for the subject property?
2. Are lots 37 and 38 required to allow the owner to comply with the City of Brooks parking bylaw as it pertains to the development on lots 39 and 40? If so does the value captured in the application of the capitalized net income approach used for the office building, roll 043-0339200 (lots 39 and 40) also capture the value of the required parking on lots 37 and 38?

Summary of the Parties Positions

Complainant

The Complainant stated that the provision of additional off street parking was required to be in place before he was permitted to begin construction of the office building on lots 39 and 40 in 1972. Lots 37 and 38 were purchased for this purpose. Then when a proposed addition was planned, the City required that the building be reduced in length by ten feet in order to provide additional parking along the alleyway to the east. The Complainant argued that without the parking space available on lots 37 and 38, the adjacent office building on lots 39 and 40 could not exist or function according to the City. The Complainant indicated a proposed value of \$30,000 for lots 37 and 38. In the Complainant's last submission the value proposed was changed to \$300,000 for lots 37,38,39 and 40 along with the office building improvement.

The Complainant provided a review of many businesses which have closed and buildings which are vacant or only partially occupied and argued that since the main tenant left in 2007 the subject building has had difficulty in renting or leasing the available space. The building has experienced vacancy levels of 80% to 90% since 2010 and has suffered significant operating losses each of the last three years as well. The Complainant indicated that \$40,000 has been spent to make the space more attractive to smaller tenants but without better results because of the large amount of space available in the city and in better locations. The Complainant brought forward newspaper articles, which speak to the decline in development and population in Brooks since 2006.

The Complainant also pointed out that an office building just across the street sold in October 2013 for the sum of \$250,000 but was assessed at a value of \$362,530. The selling price was only

approximately 70% of the assessed value. The Complainant argued that this sale supports his recommended value for the two subject parcels of \$300,000.

Respondent

The Respondent acknowledged that the 16 parking stalls are required for the development on lots 39 and 40 but this parking need not be provided on the adjacent lots. It could be anywhere within 150 meters of the developed site. Lot 38 could be developed with a building of 150 square meters while still providing the required 5 parking stalls. Lots 37 and 38 have separate titles and therefore could be sold on the open market. The Respondent brought forward a list of six sales, mostly of older houses, which were part of a land assembly for a strip mall. These sales show land values of twice the assessed value of the subject lands. The Respondent indicated that the assessment of \$56,190 for lots 37 and 38 is also slightly less than the assessment of residential lots in the downtown area of the city. The Respondent argued that lots 37 and 38 are on a separate roll number and title and should be assessed independent of roll number 043-0339200.

The Respondent provided a list of twelve assessment comparisons for the office property showing a range of values from \$77.80 to \$140.54 per square foot (sq. ft.). Site coverage for these comparisons ranged from a low of 33% to a high of 85% for the subject. The Respondent indicated that if lots 37 and 38 are added to the office site square footage the site coverage drops to 43%. However, if the valuation was to be done in this manner, the rental rate should be increased to \$9.20 per sq. ft. This would yield a value of \$455,640 for both properties combined.

The Respondent acknowledged that the office building has experienced vacancy of approximately 75% over the past three years, however, in order to recognize vacancy beyond the typical level, the space must be vacant for several years and also be rentable. The subject does not have appropriate demising walls or a layout suitable to multiple tenants.

Findings and Reasons

Vacancy

Both parties agreed that the subject office building has been at least 75% vacant over the past 3 years. The Complainant stated that approximately \$40,000 has been spent toward improving the space and making it more suitable for more than one tenant. The CARB is convinced that the subject location, the significant competition in the marketplace and the layout of the building may all be contributing factors to this extremely high vacancy experience. The CARB believes that the Complainant has made reasonable efforts to market the vacant space and concludes that any potential purchaser would take the on going vacancy in this property into account in arriving at an offer to purchase. Without specific facts concerning the building layout and further cost involved to redevelop the space for multiple tenants, the CARB could not adjust the vacancy allowance to the actual experience of the building. Our decision, however, is to increase the vacancy allowance from the current 7% to 20%. This is a very conservative change given the actual vacancy level over the last three year period.

Parking Requirement – Lot 37 and 38

Both parties agreed that there is a legal requirement that additional parking must be provided for the office building. The Respondent indicated that 16 stalls are required and that amount of parking would require that both lots 37 and 38 be used for this purpose. While the Respondent suggested

that the bylaw for parking allows for parking anywhere within 150 meters of the office property, the Board did not see that fact as practical nor does just an option appear to have any meaningful impact from a market value perspective. In fact, if the required parking were not available on the immediately adjacent parcel, the value of the office parcel would further deteriorate. In this case the two parcels (four lots) before the Board are interdependent until such time as the office building on lots 39 and 40 continues to function and legally require the parking provided on lots 37 and 38. The income that the Assessor expects to be generated by the office building is therefore also dependent on the adjacent parking. Thus when valuing the office building parcel using the capitalized net income approach, the end value captures the value of the land necessary for parking (lots 37 and 38). Also when the two parcels are considered as one, the site ratio drops to 43%, a ratio that makes the subject more in line with the median site ratios shown for the Respondent comparable properties.

While the Respondent suggested that if such an approach were to be considered, the typical rent should be adjusted upward to \$9.20 per sq. ft. The CARB could not find any reasonable rationale to do so. The CARB placed little weight on the sales brought forward by the Respondent as this land has a better location and the purchaser would have been motivated by the need to assemble the land size required for the proposed development. The CARB recognizes that the sale across from the subject is somewhat post facto but nevertheless supports the need for adjustment to the subject's assessment.

Decision

In view of the findings and reasons outlined above, the CARB makes the following decisions on the matters before us:

1. The CARB places only a nominal value of \$2000 on roll number 043-0339100 (lots 37 and 38). The larger value inherent in this property is captured by the income approach applied to the adjacent office building roll number 043-0339200.
2. The income calculation for the office building used by the Assessor and as amended by the CARB, captures a reasonable estimate of market value for both properties. The CARB has amended the Assessor's net income calculations by increasing the vacancy allowance from 7% to 20%. Therefore, the resulting value adopted by the CARB for roll number 043-0339200 is \$328,000.

It is so ordered.

DATED AT THE CITY OF LETHBRIDGE THIS 26th DAY OF November, 2013.


Presiding Officer

Paul G. Petry

APPENDIX “A”DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. R1	Respondent's Discloser
2. C2	Complainant's Disclosures

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
Commercial	Office and Land		Vacancy	Land used for parking