

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

**Estancia Investments Inc
(as represented by MNP LLP), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
J. Massey, MEMBER
A. Wong, MEMBER**

These are complaints to the Calgary Assessment Review Board in respect of the property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	058168097	058168402
LOCATION ADDRESS:	1240 Kensington Rd NW	1228 Kensington Rd NW
HEARING NUMBER:	65790	65788
ASSESSMENT:	\$9,380,000	\$8,340,000

The complaints were heard on July 24, 2012, in Boardroom 9 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- G. Worsley; L. Mulholland (Counsel)

Appeared on behalf of the Respondent:

- A. Czechowskyj

Board's Decision in Respect of Procedural or Jurisdictional Matters

During the course of the hearings, the Respondent requested an adjournment until Thursday, July 26, 2012, to allow for an opportunity to submit revised submissions in the matters. Following the Board's decision relating to the request, the Respondent retracted his request.

Decision:

The Board denies the Respondent's request for an adjournment of the proceedings, as the revised submissions would not have been disclosed to the Complainant in accordance with the legislated disclosure requirements, and the Complainant would not have an opportunity to rebut the new evidence and written argument.

Property Description

The subject properties are adjacent parcels of land located in the community of Hillhurst. They are improved with low-rise, "B" quality office building structures, with the following attributes:

Address:	1240 Kensington Rd NW	1228 Kensington Rd NW
Parcel Size (Sq.Ft.)	19,688	13,306
Improvement Size (Sq.Ft.):	49,621	43,795
Year of Construction:	1981	1983
Parking (Stalls):	88	77

Issues

The Complainant raised the following matter in section 4 of the complaint forms:

3. an assessment amount

The Complainant set out seven grounds for the complaints in section 5 of the complaint forms with requested assessments of \$7,200,000 (1240 Kensington Rd NW) and \$6,100,000 (1228 Kensington Rd NW); however, only the following issue was in dispute at the hearing:

- What is the market rent rate for the office space within the subject properties?

Complainant's Requested Assessment

At the hearing, the Complainant requested assessments as set out below:

Roll Number:	058168097	058168402
Location Address:	1240 Kensington Rd NW	1228 Kensington Rd NW
Assessment:	\$9,380,000	\$8,340,000
Requested Assessment:	\$8,680,000	\$7,630,000

Board's Decision in Respect of the Issue

The Complainant argued that the typical market rent of the subject properties is \$12.50 per sq.ft. in contrast to the subject's assessed market rent coefficient of \$14.00 per sq.ft.

In support of the argument the Complainant provided a summary of the subject properties' office leases with 2010 and 2011 commencement dates. The five leases within 1240 Kensington Rd NW, exhibit rent rates ranging from \$10.25 to \$14.00 per sq.ft., with average and median rent rates of \$12.20 and \$12.50 per sq.ft., respectively. The sixteen leases within 1228 Kensington Rd NW, exhibit rent rates ranging from \$8.00 to \$20.00 per sq.ft., with average and median rent rates of \$12.50 and \$12.00 per sq.ft., respectively.

The Respondent argued that the typical market rent for the subject properties is \$20.00 per sq.ft.

In respect of the subject property at 1240 Kensington Rd NW, the Respondent provided a document titled "2011 Downtown Office B- Rental Analysis". The twenty nine leases, with commencement dates between January and July 2010, exhibit rent rates ranging from \$8.00 to \$23.00 per sq.ft., and a weighted average rent rate of \$13.02 per sq.ft.

In respect of the subject property at 1228 Kensington Rd NW, the Respondent provided no market evidence.

In response to the Complainant's evidence, the Respondent argued that the Complainant's lease summary includes dated leases from 2010, and the most relevant (2011) leases identified on page 34 of C1, would exhibit a weighted average rent rate of \$13.20 per sq.ft., if the lease of a 15,671 sq.ft. area were excluded.

The Respondent further argued that the subject's 7.75% capitalization rate coefficient is founded on a \$14.00 per sq.ft. market rent; therefore, changes to the market rent coefficient would be inappropriate without a corresponding change to the capitalization rate.

Decision:

The Board finds that the market rent for the office space within the subject properties is \$12.50 per sq.ft.

The Board was persuaded by the Complainant's summary of office leases within the subject properties demonstrating an approximate market rent rate of \$12.50 per sq.ft. Although the leases are site specific to the subject property, there was no evidence before the Board, to demonstrate that the subject's leases do not reflect typical market conditions for similar properties.

The Board rejects the Respondent's argument that \$20.00 per sq.ft. is reflective of typical market rents for the subject properties, as there was no market evidence provided to demonstrate typical market rents are at that level. On the contrary, the Respondent's own evidence in respect of the subject property at 1240 Kensington Rd NW, "2011 Downtown Office B- Rental Analysis", exhibits a weighted average rent rate of \$13.02 per sq.ft. for office properties located in the downtown market area. Moreover, although the Respondent argued that some of the Complainant's leases were "dated" as they included leases from 2010, the Respondent's "2011 Downtown Office B- Rental Analysis" includes only leases from the first half of 2010; some 12 to 18 months prior to the July 1, 2011 valuation date for this assessment.

The Board also rejects the Respondent's argument in respect of excluding the lease of the 15,671 sq.ft. area on page 34 of C1, as in the preceding hearing before the same Board, the Respondent made the contradictory argument that only full floor leases should be considered in a rent rate analysis. The Board can find no valid reason to exclude this lease from the Complainant's analysis.

The Board further rejects the Respondent's argument that the subject's \$14.00 market rent rate should not be disturbed, because the subject's 7.75% capitalization rate is founded on a \$14.00 market rent rate. In this instance, as in CARB 1331/2011-P, the Board has no way of knowing whether or not a capitalization rate adjustment would be warranted because there is no evidence of how the 7.75% capitalization rate was established.

The assessments are **REVISED** as follows:

Roll Number:	058168097	058168402
Location Address:	1240 Kensington Rd NW	1228 Kensington Rd NW
Assessment:	\$9,380,000	\$8,340,000
Revised Assessment:	\$8,680,000	\$7,630,000

DATED AT THE CITY OF CALGARY THIS

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DAY OF SEPTEMBER, 2012.


 J. Krysa, Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1240 Kensington Rd NW	
1. C1	Complainant's Submission
2. R1	Respondent's Submission
1228 Kensington Rd NW	
1. C1	Complainant's Submission
2. R1	Respondent's Submission

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.

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).*

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Low Rise	Income Approach	Net Market Rent