CALGARY
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, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

The Manufacturers Life Insurance Company (as represented by Colliers International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER
I. Fraser, MEMBER
J. O'Hearn, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER:	**068 134 600**
LOCATION ADDRESS:	**1122 – 4 Street SW, Calgary AB**
HEARING NUMBER:	**61146**
ASSESSMENT:	**$17,000,000**

This complaint was heard on the 11th day of August, 2011 at the office of the Assessment Review Board located at Floor No. 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Scott Meiklejohn*

Appeared on behalf of the Respondent:

- *Lawrence Wong*

Board's Decision in Respect of Procedural or Jurisdictional Matters:

There were no procedural or jurisdictional matters brought before the Board so the hearing moved directly to merit evidence and argument.

Property Description:

The property that is the subject of this complaint is described on assessment records as Stanley Tech Centre. It comprises a 13 storey, 124,644 square foot office building built in 1981 on a 14,900 square foot site located in the south downtown area known as "The Beltline." 2,269 square feet of the building area is main floor retail space. An underground parkade contains 68 parking stalls.

The property is in the Class "B" Beltline office building stratum. The assessment was prepared using an income approach. For "B" Beltline offices, the office rent rate is $14.00 per square foot. Retail space rent is set at $20.00 per square foot and parking stalls are $200 per month. Vacancy rates are 13% for office and retail space and 2% for parking. Operating expenses are $13.00 per square foot and a 2% non-recoverable expense allowance is applied. From the foregoing inputs, a net operating income is calculated and then capitalized at 8.50% to yield the assessment amount. The 2011 assessment equates to a rate of $136.39 per square foot of building area, not including the parkade.

Issues:

The Assessment Review Board Complaint form had Box 3 (Assessment amount) checked in Section 4. For Section 5, there was a list of reasons for the complaint. At the hearing, the Complainant stated that the issues were Market Value and Fairness and equity, however the only evidence provided was to show that the rental rate applied to office space was too high.

Complainant's Requested Value: $14,550,859 ($116.74 per square foot of building excluding parkade). It is noted that the Complainant's requested assessment was calculated on the basis of a total floor area of 124,712 square feet.

Party Positions:

Complainant's Position:

In arguing for a reduction in the assessment, the Complainant pointed out perceived inequities in downtown and Beltline assessments, however, it was stated that these were the Complainant's opinions and there was no evidence before the Board to support this position.

The Complainant found no equity in downtown assessments versus Beltline assessments. For both districts, rents and values are highest in the central area and both decline in properties to the east or west of the central area. In the Beltline, however, all Class "B" properties are assessed using a 13% vacancy, $13.00 operating cost, 2% non-recoverable expense allowance and 8.5% capitalization rate. In the west end of downtown all factors are the same except for the capitalization rate which is higher at 9.0%. Rents and values also decline as you move from downtown to the Beltline. Yet, the capitalization rate is lower for the subject Beltline property than it is for some downtown Class "B" properties.

The above formed the basis of the Complainant's fairness and equity argument. It was concluded that either the rent rate or the capitalization rate could be adjusted to correct the inequity. In the subject complaint, it would be a reduction in the rent rate that is argued.

A rent roll, effective February 8, 2011, was in the Complainant's evidence. The roll showed a number of lease transactions wherein the rent rate was lower than that used in the assessment. A third floor renewal on June 1, 2010 set the rent at $12.00 for the first year and at $13.00 for the second year of a 2 year term. A new third floor lease had rent of $11.00 for two years from November 1, 2010, escalating to $12.00 and $13.00 in the third and fourth years of the five year term. On the fourth floor, a new lease from April 1, 2010 had rent fixed at $12.00 for the five year term. One twelfth floor tenant leased space for four years from November 1, 2010 at $12.00 while another renewed a lease at $12.00 for two years from June 1, 2010. These 2010 leases supported the Complainant's requested rent rate of $12.00 per square foot.

Six lease transactions in four other buildings with rents from $10.00 to $13.00 per square foot also supported the request. Four of the deals were done in 2010, prior to July 1, 2010 and two started after that date – on September 1 and October 1. The Complainant pointed out that these leases showed that there was no change in rents from the first half of the year to the second half.

Respondent's Position:

The Respondent pointed out to the Board that in the rent roll provided by the Complainant, there was a July 1, 2010 lease for 14th floor space at a rent of $16.00 for a three year term and questioned why the Complainant had not included that transaction in its analysis. Further, some of the leases were "post-facto" transactions having occurred subsequent to the July 1, 2010 valuation date. The Respondent relies upon information provided by property owners through the annual Assessment Request For Information (ARFI) process. Typically, ARFI's are received back from owners in the Spring so deals that transact after that time may not get reported until the following year.

A table of rent data from 19 leases in 12 comparable buildings showed rent rates from $12.00 to $23.00 per square foot. All of these leases had start dates in the first half of 2010. The mean average rate was $15.47, the median was $15.00 and the weighted mean was $14.59. All of the data supported the $14.00 rate used in the assessment.

A table summarizing data from quarterly survey reports prepared by Barclay Street and Avison Young (two Calgary real estate brokerages that conduct periodic surveys of various markets) showed that Beltline Class "B" rents were from $11.00 to $16.00 per square foot, providing additional support for the assessment rate.

Exhibit R1 from the Respondent contained copies of Calgary CARB decisions and a few pages from a March 2011 appraisal of the subject property. One of the CARB decisions was for the 2010 complaint against the subject property's assessment. The 2010 CARB panel confirmed the assessment. The other decision was on the 2011 assessment of a downtown office property.

A few pages from a Cushman & Wakefield appraisal set an opinion of market value of $24,930,000 on the property as at March 1, 2011. In the appraisal, it stated that the market rent rate applicable to the office space in the building was $14.00 per square foot.

Board's Decision:

The 2011 assessment is confirmed at $17,000,000.

Reasons for the Decision:

The Respondent assesses properties like the subject using an income approach wherein factors such as rent rate, vacancy and so on are "typical" factors, derived from market analyses. The Complainant argued that the subject was atypical for the Class "B" stratum and produced evidence of actual rents in the building that were lower than the typical $14.00 per square foot rate used in the assessment. Some of the leasing occurred later in 2010 and that information would not have been available to the assessor when the assessment calculation was completed in early to mid-2010. The Respondent pointed out to the Board that there was an additional lease in the subject, commencing July 1, 2010 wherein the rent was $16.00 per square foot.

The typical rent rate of $14.00 per square foot was derived from analysis of leases in comparable properties over the period from January 2010 to June 2010. There is a range of rental rates from $12.00 to $23.00 per square foot. The assessor selected $14.00 as being typical for Class "B" offices. The Complainant's evidence supports a rental rate of $12.00 per square foot. $12.00 is within the assessor's range. For this reason, the Board finds that the typical rate of $14.00 is appropriate for the subject.

The Complainant argued that Beltline properties such as the subject are inequitably assessed when compared to similar properties in the downtown. The argument was that historically, downtown properties were superior investments and that was confirmed by market evidence. In the current situation, the Complainant provided no evidence to support the argument. The Board gives no weight to the unsupported equity argument.

The current assessment of the property equates to $136.39 per square foot of building area. The Complainant asks that the assessment be reduced to the equivalent of $116.74 per square foot. While there is no evidence to support $136.39, there is no evidence to support the lower rate. The only evidence before the Board was rental information and the decision is made on only that evidence.

Portions of an appraisal report were included in the Respondent's evidence. The appraisal concluded that the market value of the subject property was $24,930,000 as at March 1, 2011 (it is noted that the dates on one page of the appraisal were March 1, 2010, not 2011). On another page, the appraiser reported an opinion that market rent for the subject office space would be $14.00 per square foot. None of the opinions in the appraisal were supported in the Respondent's evidence and the appraiser was not present at the hearing to explain his work. The Board gives no weight to this evidence.

The Respondent referenced two Calgary CARB decisions. One followed the 2010 CARB hearing on the subject property. The other was a 2011 decision on a downtown property. The Board gives no weight to these decisions. Evidence at the 2010 hearing may have been completely different than that before this Board. The 2011 decision does not relate to the arguments in this hearing and is therefore disregarded.

DATED AT THE CITY OF CALGARY THIS 30 **DAY OF** August **2011.**

W. Kipp

W. Kipp
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure

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.