

**COMPOSITE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS
REVISED**

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 (MGA).

between:

Shaw Cablesystems Limited
(as represented by Colliers International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. J. Griffin, Presiding Officer
A. Wong, MEMBER
E. Reuther, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER: 201670015

LOCATION ADDRESS: 3330 – 23rd Street NE

HEARING NUMBER: 66167

ASSESSMENT: \$49,020,000.

This complaint was heard on 4th day of October, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- T. Howell

Appeared on behalf of the Respondent:

- G. Good
- C. Macmillan

Property Description:

[1] The subject is, according to the *Property Assessment Detail Report* (Exhibit R-1 pg. 8), a two building complex totalling 211,840 Sq. Ft. (136,922 + 74,918) which has been assessed as a single entity. The buildings are A+ quality, suburban office buildings that were constructed in 2002 (the larger Bldg.) and 2001 and they are located in the North Airways Industrial/Business area of the city. The underlying site is reportedly 20.69 acres in size. The property has been valued for assessment purposes on the basis of the Income Approach with the following parameters having been applied:

Northeast Office Space	211,839 Sq. Ft.	@	\$ 19/Sq. Ft.
Enclosed Parking Stalls	41 Stalls	@	\$960/stall
Vacancy:			
Parking		@	2.00%
Office		@	11.00%
Operating Cost Recovery	Office	@	\$12.50/Sq. Ft.
	Parking	@	0.00%
Non Recoverable Allowance		@	1.00%
Capitalization Rate		@	7.00%

Issues:

[2] There are a number of interrelated issues outlined on the Assessment Review Board Complaint form; however, at the Hearing the Complainant reduced the issue to be considered by the CARB to:

1. The assessed market rents are too high and not reflective of market rent.
2. The assessed capitalization rate at 7.00% is too low and would be reflective of market value at 7.25%.

Complainant's Requested Value: \$42,400,000. Truncated (Exhibit C-1 pg. 37)

Party Positions:**Complainant's Position**

[3] The Complainant contends that the assessed rental rate of \$19/Sq. ft. is not indicative of market rent and provided (Exhibit C-1 pgs. 12 & 13) a list of eight (8) leases from A+, A2 and A- properties that are deemed comparable to the subject. These properties are all, with one exception, located in the northeast sector of the city. The one exception is located in the southeast sector of the city. The lease comparables have commencement dates that range from July 2010 to August 2011 and the spaces in question range from 3,690 Sq. ft. to 64,168 Sq. Ft. The indicated rental rates range from \$13.50/Sq. Ft. to \$19.50/Sq. Ft. Three of the properties feature underground parking while the remaining properties feature surface parking. The year of construction for these comparable properties ranges from 1999 to 2009. This information forms the basis for the Complainant's request for an \$18/Sq. Ft. rental rate.

[4] In terms of their capitalization rate argument, the Complainant produced (Exhibit C-1 pg. 21) a summary of the *2012 City of Calgary Suburban Office Capitalization Rate Study* which features five (5) A Class suburban office property sales. These properties were sold between August 2010 and March 2011 and the indicated capitalization rates range from a low of 5.21% to a high of 7.60% with an indicated median of 6.91%. The Complainant contends that all of these sales, with one exception, relate to portfolio sales and, in keeping with previous practices of the Assessor, this should exclude them from being analyzed for such purposes. The one

excluded sale relates to the property located at 14505 Bannister Road SE which has an indicated capitalization rate of 7.31%, which, when rounded down to the nearest quarter point, supports their requested 7.25% capitalization rate. In support of their contention that four of the referenced sales involve portfolios, the Complainant produced (Exhibit C-1 pgs. 22 - 31) sales summaries from the *RealNet* data base that do provide such indications.

Respondent's Position

[5] In support of the assessed \$19/Sq. Ft. rental rate, the Respondent introduced (Exhibit R-1 pg. 15) their *2012 Lease Comparables* which features 14 comparables all from northeast located A+ suburban office properties. These comparable leases have commencement dates ranging between September 2010 and July 2011. The leased areas range from 1,048 Sq. Ft. to 15,961 Sq. Ft. and indicate a weighted mean of \$18.84/Sq. Ft. The Respondent contends that this information supports the application of the assessed rental rate of \$19/Sq. Ft.

[6] Insofar as the 2012 capitalization rate study is concerned, the Respondent provided (Exhibit R-1 pgs. 28 – 49) Affidavits of Value relating to the various sales wherein the value of the individual building in question is identified and advised the CARB that it is these values that were utilized by the Assessor to derive the indicated capitalization rates.

Board's Decision:

[7] The assessment is **confirmed** at: **\$49,020,000.**

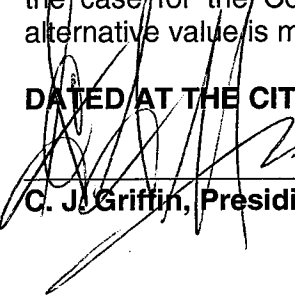
Decision Reasons:

[8] The CARB finds the lease comparables presented by the Complainant to be no more convincing than those presented by the Respondent and in fact the average of the lease rates presented by the Complainant equates to approximately \$16.14/Sq. Ft. which is not supportive of the requested \$18/Sq. Ft. rate. In consideration of this information the lease comparables presented by the Complainant fail to convince the CARB that the assessed rental rate warrants a change.

[9] The Complainant produced no evidence to support their requested 7.25% capitalization rate. While they did attempt to discredit the sales utilized by the Respondent, based on the fact that many of the sales utilized were portfolio sales, the CARB found the Affidavit of Value evidence of the Respondent to be an acceptable explanation of how the capitalization rate analysis had been completed. The CARB is of the judgment that, while portfolio sales may not be the first choice in terms of deriving a capitalization rate, when the market information is limited such sales can be utilized when there is supportive evidence to indicate the allocated sales price of the individual buildings involved in the sale. The aforementioned Affidavits of Value provide such evidence.

[10] It is the responsibility of the Complainant to bring forward convincing evidence for the CARB to consider if an assessment is to be varied. It is not enough to simply state that the analysis of the Respondent is incorrect as that does not, in the judgment of the CARB, complete the case for the Complainant unless evidence is presented to convince the CARB that an alternative value is more indicative of market value.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF October 2012.


C. J. Griffin, Presiding Officer

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

NO.	ITEM
1. C-1	Complainant's Submission
2. R-1	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 MGB Administrative Use Only

<i>Decision No. 2047-2012-P</i>		<i>Roll No. 201670015</i>		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Office	Market Value	Capitalization Rate	Sales Analysis