

**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:

Dundee Flex Properties Inc. (as represented by Colliers International Realty Advisors Inc.) COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, R. Roy
Board Member, T. Usselman***

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 2012 Assessment Roll as follows:

ROLL NUMBER: 049016108

LOCATION ADDRESS: 3030 - Sunridge Way NE

HEARING NUMBER: 66253

ASSESSMENT: \$4,210,000

This complaint was heard on 17th day of October, 2012 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom nine.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *R. Fegan*

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

- (1) There were no procedural or jurisdictional issues raised by either party.

Property Description:

- (2) The subject consists of a multi-tenant office building containing 26,894 square feet (s.f.). The land area is 2.07 acres.

Issues:

- (3) The subject is currently assessed on the income approach to value. The Complainant does not dispute the valuation method, nor does the Complainant dispute the vacancy rate, operating costs, or non-recoverable allowance used. The two issues of this complaint are the rents applied, and the capitalization rate used. The City has applied a rent of \$14.00 per s.f., and a 7.00 per cent capitalization rate in the preparation of the assessment. The Complainant argues that a rent of \$12.00 per s.f, and a capitalization rate of 7.75 per cent is more appropriate.

There are no other issues.

Complainant's Requested Value: \$3,190,000

Evidence

- (4) In support of his requested capitalization rate, the Complainant submitted four sales. The Complainant produced some details regarding each transaction including an indicated capitalization rate. However, the Complainant failed to provide any income details, or any information as to how the capitalization rate for each property was derived.

- (5) The Complainant submitted RealNet reports for each of the four sales. RealNet is a widely recognized, reliable reporting agency that reports on commercial real estate transactions, as well as details relative to each. In two out of the four properties shown by the Complainant, the RealNet agency reported a capitalization rate substantially lower than the complainant. No explanation as to the difference could be offered.

- (6) One of the four sales offered by the Complainant is a court ordered sale that was not listed on the open market. The 2010 Alberta Municipal Affairs Manual for recording and reporting information for assessment audit and equalized assessment states as follows;

"..... Sales by lending institutions of repossessed property are generally made at reduced prices and are usually also rejected. However, these sales can be valid if exposed to the open market with a willing seller seeking the highest price." The Board finds that the property was not exposed on the open market. As such, this sale could not be considered as a valid indicator of market value, and therefore was not a reliable indicator of a market derived capitalization rate.

(7) In support of the rental request, the Complainant submitted two leases from the subject property. These reflect rents of \$13.60 and \$13.50 per s.f.

(8) The Complainant also submitted five properties that reflect market rents from \$10.00 to \$13.00 per s.f. During the course of the hearing, it was revealed that all five of these "comparables" are primarily industrial buildings that have little commonality with the subject.

(9) The Respondent produced the Assessment Request for Information (ARFI) form for the subject. The ARFI shows rents in the subject ranging from \$13.50 to \$20.00 per s.f. Those rent levels are confirmed by the actual rent roll submitted by the Respondent.

(10) The Property Income and Expense questionnaire for the subject, for the period ending December 31, 2010, shows a rental revenue of \$383,244, or \$14.25 per s.f.. The Questionnaire, or its contents, were not questioned by the Complainant.

(11) The Respondent submitted eight comparable sales from which a capitalization rate was derived. The range of rates indicated was 5.21 per cent to 7.95 per cent. The average is 6.85 per cent. None of this data was questioned or disputed by the Complainant.

(12) The Respondent also submitted seven comparable sales to demonstrate that the subject's assessment is equitable with similar properties. Selling prices per s.f. range from \$185 to \$378. The average is \$282, compared to the subject's assessment of \$156 per s.f.. None of this data was questioned or disputed by the Complainant, although the Board questions the similarity between the subject and these comparables.

Board's Decision

(13) The onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide convincing evidence to justify a change in the assessment. The Complainant failed to do that.

(14) It is the opinion of this Board that the Complainant's capitalization rate request has no supporting analysis. Similarly, even the Complainant's own evidence does not support the rental rate request. The Complainant did not submit sufficient evidence to show that the assessed value is incorrect or that the assessment is prepared incorrectly.

(15) The assessment is confirmed at \$4,210,000.

DATED AT THE CITY OF CALGARY THIS 15 DAY OF November 2012.


Jerry Zezulka
Presiding Officer

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

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1. C1 Complainant Submission of Evidence,
 2. R1 City of Calgary Assessment Brief

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.*

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<i>Decision No. 2310/2012 - P</i>		<i>Roll No. 101040103</i>		
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Office	Income	Cap. Rate	Onus