

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

between:

Harvest Hills Office Park Ltd.
(as represented by Linnell Taylor Assessment Strategies), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. J. Griffin, PRESIDING OFFICER
D. Julien, MEMBER
H. Ang, 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: 201622354

LOCATION ADDRESS: 5000 333 – 96 Avenue NE

HEARING NUMBER: 65055

ASSESSMENT: \$21,460,000.

This complaint was heard on 16th day of January, 2012 at the office of the Assessment Review Board located at 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- J. Mayer

Appeared on behalf of the Respondent:

- M. Lau

Property Description:

The subject property is (Exhibit C-1 pg. A3), a Suburban Office building that contains a total assessed area of 68,210 Sq. Ft. The building, which was constructed in 2009, is classified as being an A+ property. The underlying site is approximately 4.41 acres in size. The assessed value of the subject was derived through application of the Income Approach to Value with \$25/Sq. Ft. being the applied rental rate and 7.50% being the applied capitalization rate. The property also incorporates 75 enclosed parking stalls which have been valued on the basis of \$1,080/stall.

Issues:

The Complainant identified the issue to be considered by the CARB as being:

1. The assessed rental rate of \$25/Sq. Ft. is too high and should be lowered to a rate of \$21.50/Sq. Ft.

Complainant's Requested Value: \$18,520,501.

Party Positions:**Complainant's Position**

The Complainant introduced (Exhibit C-1 pg. 6) a summary of the rent roll from the subject property showing five (5) leases signed between October 2009 and July 2011 which indicate a Median Rent of \$21.50/Sq. Ft. The Complainant indicated that the aforementioned leases represent all of the leasing activity in the building as the property is still in the initial lease-up stage. The Complainant also pointed out that the highest of the five leases reported a rate of \$24.50/Sq. Ft. however, that lease was negotiated in late 2008 under more buoyant economic times and, further, that lease also incorporates a tenant improvement allowance of \$50/Sq. Ft. Additionally, the Complainant introduced (Exhibit C-1 pg. 8) a Lease Comparable Chart which summarizes ten (10) lease transactions from properties deemed comparable to the subject. These leases have Start Dates ranging from September 2009 to December 2010 and the areas involved range from a low of 1,049 Sq. Ft. to a high of 15,069 Sq. Ft. The various buildings involved have a year of construction ranging from 1978 (1 property only) to 2009. The Median lease rate is indicated to be \$21/Sq. Ft. Two of the lease comparables relate to a building (Bisma Centre) that is located approximately 1 km. West of the subject. It is also an A+ classified building and it competes directly with the subject. The Complainant stressed to the CARB that lease data from 2008 was not included as the economy was very different (stronger) at that time and such lease data would not be representative of the economic conditions prevalent at the Date of Value.

Respondent's Position

The Assessor provided (Exhibit R-1 pg. 25) a summary of five (5) equity comparables all of which refer to A+ classified buildings located in the N.W. quadrant of the City and which have an original year of construction (YOC) ranging from 2001 to 2009. All five (5) of these comparables have been assessed using the same \$25/Sq. Ft. rate applied to the subject property. Additionally, the Respondent presented (Exhibit R-1 pg. 28) a summary of fourteen (14) leases in A+ buildings deemed comparable to the subject. These leases report lease start dates ranging from June 2008 to July 2010 and the indicated median rate is \$26.50/Sq. Ft. Additionally the Respondent introduced a further thirteen (13) lease summaries from A2 classified properties with lease start dates ranging from September 2008 to June 2010. The indicated median of this lease data is \$18/Sq. Ft. Additional lease information relating to the

Market Mall Professional Building was presented (Exhibit R-1 pgs. 31 – 35) indicating lease rates in the \$23to \$35/Sq. Ft. range for office space in what the Assessor classifies as a medical/dental building. The Respondent also introduced (Exhibit R-1 pg. 36) a summary of five (5) A+ office building sales and four (4) A2 & A- office buildings. These sales were recorded between July 2008 and March 2010. The indicated average selling price per Sq. Ft. of building area is reported to be \$373.64 for the former category and \$229.88 for the latter category. The Assessor maintains that this information serves to support the assessed value of the subject which equates to approximately \$313/Sq. Ft.

Complainant's Rebuttal:

The Complainant introduced a Rebuttal brief (Exhibit C-2) which deals with the relative comparability of some of the properties introduced by the Assessor as being comparable to the subject. Additionally, the Rebuttal expands upon the Complainant's argument that leases signed in 2008 should not be given consideration by the CARB as they stem from a very different economic environment and including that information with lease data pertaining to 2009 and 2010 skews the data and results in an unrealistic conclusion as to an appropriate rental rate for the subject property. The Complainant maintains that if the 2008 lease data is removed the remaining 2009 & 2010 data, from both parties, fully supports their requested \$21/Sq. Ft. rental rate. The Complainant provides a summary of the foregoing (Exhibit C-2 pg. 10) which indicates a median rental rate of \$21/Sq. Ft.

Board's Decision:

The complaint is allowed and the **assessment is reduced to: \$18,500,000.**

Board Reasons:

The CARB found the evidence of both parties to be strong and convincing; however, the Board does agree with the Complainant that the inclusion of lease data from 2008 is of less relevance given the very different economic environment that existed at that time. As shown by the Complainant, if the 2008 data is removed then the remaining data, from both parties, fully supports the requested rental rate of \$21/Sq. Ft.

The CARB gave little consideration to the evidence pertaining to the Market Mall Professional Building as this property is not considered to be comparable to the subject in terms of both location and its medical/dental classification.

The CARB gave little consideration to the sales data presented by the Assessor as same does not, in the judgment of the CARB, present a reliable unit of comparison. The sale of income producing properties, such as A+ suburban office buildings, is largely dependent upon the quantity and quality of the income stream being produced by said property or the income stream that said property is deemed capable of producing. Additionally, the majority of the sales data presented stemmed from transactions concluded in 2008 which, as stated above, the CARB accepts as being a measurably different economic environment than that which existed at the Date of Value.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF February 2012.


C. J. Griffin
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. C2	Complainant's Rebuttal
2. R1	Respondent's 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.*