



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:

839621 Alberta Ltd., (as represented by Colliers International Realty Advisors Inc.),
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. B. Hudson, PRESIDING OFFICER
R. Cochrane, BOARD MEMBER
D. Pollard, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER: 076051408

LOCATION ADDRESS: 3517 17 AV SE

FILE NUMBER: 70318

ASSESSMENT: \$1,380,000

This complaint was heard on the 19th day of June, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *C. Lee*
- *S. Paulin*

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

[1] There were no procedural or jurisdictional matters raised by the parties.

Property Description:

[2] The subject property is a retail complex located at 3517 17 AV SE in the Southview community. The site area is 0.18 acres, and the improvement is a two storey structure that includes four retail units on the ground floor with a net rentable area of 4,546 square feet(sf.), and three office units on the second floor with a net rentable area of 4,436sf. There is also 3,902sf. of unfinished basement storage. The subject property is classified as free standing retail with a C- quality class rating. The current assessment was calculated using the capitalized income approach to value to a total of \$1,380,000 rounded.

Board's Decision:

[3] The assessment is confirmed at \$1,380,000

Issues:

[4] Should the subject be assessed as free standing retail property at a typical cap rate of 7.00%, or as a retail strip centre at a typical cap rate of 7.50%?

[5] Should the vacancy allowance be adjusted to an atypical rate of 25%, from the assessed typical rate of 8.25%?

Complainant's Requested Value: \$803,000.

Legislative Authority, Requirements and Considerations:

[1] The Composite Assessment Review Board(CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:

Section 460.1(2): Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

[9] For purposes of the hearing, the CARB will consider MGA Section 293(1):

In preparing the assessment, the assessor must, in a fair and equitable, manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations

[10] The Matters Relating to Assessment and Taxation Regulation(MRAT) is the regulation referred to in MGA section 293(1)(b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 2:

An assessment of property based on market value

(a) must be prepared using mass appraisal

(b) must be an estimate of the value of the fee simple estate in the property

(c) must reflect typical market conditions for properties similar to that property

Position of the Parties

Issue : Should the subject be assessed as a retail free standing property at a typical cap rate of 7.00%, or as a retail strip centre at a typical cap rate of 7.50%?

Complainant's Position:

[11] The Complainant argued that the physical characteristics of the subject property match the description of a retail strip centre, and therefore the rate used to capitalize the net income from the property and calculate the assessment should be changed from 7.00% to 7.50%. The description of a retail strip centre as provided by the City is included in Exhibit C1 page 43, as follows:

“ A strip centre is typically an attached row of at least four retail stores, managed as a coherent retail entity, with on site parking in front or behind the stores. Open canopies may connect the storefronts, but a strip centre does not have enclosed walkways or halls linking the stores. A strip centre may be configured in a straight line, or have an L or U shape.”

[12] The Complainant submitted Real Net sale reports and photographs of two properties designated as retail strip centres in Forest Lawn. The Complainant argued that the properties located at 3111 and 3411 17 AV SE are comparable to the subject property, and therefore the subject should be treated equitably and classified as a retail strip centre for assessment purposes.

Respondent's Position:

[13] The Respondent argued that the subject property is an example of a typical retail free standing property located on 17 AV SE, and the cap rate should remain at 7.00% as assessed. The description of a retail free standing property as provided by the City is also included in Exhibit C1 page 43, as follows:

"A retail free standing property is typically a retail store not located in a planned shopping centre. It is the simplest form of a retail establishment in Calgary. A free standing retail building can vary greatly in size. It can be contiguous to it's neighbours, however, one should be able to visually identify the different buildings. It typically contains three occupants or less. Most are occupied by one occupant."

[14] The Respondent submitted property assessment detail reports and photographs of comparable properties classified as retail free standing, and located at 4202 and 4310 17 AV SE, in the Forest Lawn community. They are both two storey structures, classified as C quality and built in the 1970's, characteristics that are very similar to the subject property.

[15] The Respondent also submitted property assessment detail reports and photographs of retail properties located along 17 AV SE that are classified as retail strip centres. Typically they are single storey structures under one roof in contrast to the subject property.

Board Decision

[16] The current retail free standing property type designation for the subject property, and the 7.00% cap rate used in calculating the assessment, is confirmed.

Board Reason for Decision:

[17] The Board determined that the photographs and property assessment detail reports submitted by the Respondent, represent compelling evidence that the subject property is most similar to comparable properties with retail free standing property type designation in the 17 AV SE community.

Issue: Should the vacancy allowance be adjusted to an atypical rate 25% from the current assessed typical rate of 8.25%?

Complainants Position

[19] The Complainant submitted a chart (Exhibit C1 page 51) illustrating the actual "chronic" vacancy problem experienced by the subject property since 2009. Calculated vacancy as a percentage of total space ranges from a low of 25.01% in 2010 to a high of 60.29% in 2012; representing a four year average of 47.08%. The Complainant argued that the typical assessed vacancy allowance of 8.25% in 2013, does not adequately recognize the impact of vacancy on the market value of the property.

[20] The Complainant noted that the CARB 1844/2012 decision (Exhibit C1 pages 15-18) awarded an atypical 25% vacancy allowance on the same subject property based on similar evidence and a three year average actual vacancy of 43%. The typical vacancy allowance was 10% in 2012.

[21] In the 2012 complaint, the Complainant attributed the atypical vacancy issue to the "undesirable" location of the property, and the subsequent reluctance of potential tenants to rent space in the building. The Complainant argued that the subject requires the same atypical vacancy allowance of 25% for 2013, to continue to recognize the negative affect of the undesirable location on tenancy and market value.

Respondents Position

[22] The Respondent argued that the vacancy calculations submitted by the Complainant are misleading. The reality is that the vacant space calculation for each of the four years includes basement storage space of 3,902sf., that is not available for rent. Typical vacancy allowance is normally calculated based on the percentage of above grade space available for rent. When the basement storage space is excluded, the actual vacancy experience of the subject property ranges from a low of -5% in 2010, to a high of 30% in 2012; representing a four year average of 16.85%.

[23] The Respondent indicated that the two properties identified previously as comparable to the subject, and located at 4202 and 4310 17 AV SE, also have some actual vacancy that exceeds the assessed allowance of 8.25%. However, they are both assessed as typical retail free standing properties and equity is maintained in the community if the typical vacancy allowance of 8.25%, is also applied in the subject's assessment calculation.

Board Decision:

[24] The typical vacancy allowance of 8.25% used to calculate the assessment is confirmed.

Board Reasons

[24] It is clear that basement storage space must not be included in the calculation of vacant space available for rent, because it skews the results and leads to an inaccurate representation of actual vacancy.

[25] It is also clear that an inaccurate representation of actual vacancy may lead to a misleading estimate of the potential negative impact of vacancy on the market value of retail property.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF July 2013.


T. B. Hudson

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R2	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.*

For MGB Administrative Use Only

<i>Decision No. 70318P-2013</i>			<i>Roll No.076051408</i>	
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Sub-Type</i></u>	<u><i>Issue</i></u>	<u><i>Sub-Issue</i></u>
CARB	Retail	Free standing	Property type	vacancy