



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:

PARALLEL CENTRE LTD.
(as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Earl K. Williams, PRESIDING OFFICER
K. B. Bickford, MEMBER
A. Maciag, 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: 067063008

LOCATION ADDRESS: 1040 7 AV SW

FILE NUMBER: 70513

ASSESSMENT: \$17,330,000

This complaint was heard on 26th day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom5.

Appeared on behalf of the Complainant:

- G. Worsely Agent, MNP LLP
- W. Van Bruggen Agent, MNP LLP

Appeared on behalf of the Respondent:

- E. Curry Assessor, The City of Calgary

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

[1] The parties identified to the Board that the evidence and arguments to be presented in respect of the hearing on Capitalization Rate (cap rate) and vacancy rate for the subject property will be the same as presented in respect of File # 70677 for Property Roll # 067050427 and requested that the evidence and arguments be carried forward to the subject property. It was accepted that the Board's findings and decision regarding the cap rate issue would therefore be common to the subject property. The Board found this to be an appropriate approach to the matters at hand.

[2] The subject property has an exempt portion which was not appealed by the Complainant. The Respondent agreed to recalculate the assessment with an adjustment that recognizes the exempt area. Both parties agreed that to not recognize the exemption is inequitable.

[3] No additional Procedural or Jurisdictional Matters were raised by the parties.

Property Description:

[4] The subject property at 1040 7 AV SW is an 81,216 square foot (sq.ft.) office building on 0.57 acre of land with 1979 approximate year of construction (ayoc) assigned a C quality rating in the Downtown Commercial Core in Downtown Zone 2 (DT2) with the Property Use: Commercial and Sub Property Use: CS1025 Office/Retail. The space profile of the subject property is 15,968 sq. ft. of retail and 65,247 sq. ft. of office of which 12,929 sq. ft. is exempt from taxation.

[5] The assessment was prepared on the Income Approach with a capitalization rate (cap rate) of 5.50%, a rental rate of \$13.00 per square foot (psf) for the office space and a vacancy rate of 6.75%.

Issues:

[6] Should the subject property be assessed on the Income Approach with the assessed office rental rate reduced from \$13.00 psf to \$10.50 psf?

[7] Should the subject property be assessed on the Income Approach with the office vacancy rate increased from 6.75% to 9.00%?

[8] Is the current assessed cap rate of 5.50% reflective of the market conditions as of the designated valuation date or is the correct capitalization rate to apply 6.00%?

Complainant's Requested Value: \$15,070,000

Board's Decision:

[9] Based on the evidence and argument presented the Board supports the use of a cap rate of 6.00% in the determination of the assessment.

[10] The assessment is reduced to \$15,880,000.

Position of the Parties

[11] The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[12] The Complainant's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2013 Property Assessment Notice, the Property Assessment Detail Report and the City of Calgary Non-Residential Properties – Income Approach Valuation work sheet. In support of the vacancy rate the evidence included the MNP's "C" Class Office Vacancy Study. In support of the cap rate issue the Complainant submitted an overview of the City of Calgary and the MNP methodology, an analysis of a number of comparable properties including supporting documentation, market studies on cap rates, excerpts from applicable legislation, excerpts of technical information related to capitalization rate methodology, excerpts of decisions from the Alberta Court of Queen's Bench, as well as Assessment Review Board and Municipal Government Board decisions in support of their position.

[13] The Respondent's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2013 Property Assessment Notice, the Property Assessment Summary Report and the City of Calgary Non-Residential Properties – Income Approach Valuation work sheet. In support of the vacancy rate the evidence included an analysis of the MNP's "C" Class Office Vacancy Study and the City of Calgary Vacancy Analysis for C and D Class Office. In support of the cap rate issue the Respondent submitted an overview of the City of Calgary Capitalization Rate Summary, the analysis of a number of comparable properties including supporting documentation, excerpts from applicable legislation, excerpts of technical information, as well as Assessment Review Board and Municipal Government Board decisions in support of their position.

[14] Both parties placed technical, professional and academic excerpts before the Board in support of their position. This Board finds that any specific passage or quote (i.e. excerpt) from a larger document may not capture the true intent of the document and is, therefore, seen by the Board as incomplete material and may be given limited weight.

[15] As noted above, both parties placed before this Board a number of Alberta Court of Queen's Bench, Assessment Review Board and Municipal Government Board decisions in

support of their position. These decisions were made in respect of issues and evidence that may however be dissimilar to that before this Board.

Issue – Capitalization Rate

Complainant's Position:

[16] The Complainant argued that the methodology utilized by the City of Calgary in the derivation of the cap rate is based on flawed assumptions related to the development of the net operating income (NOI). One assumption that is challenged is the absence of consistency in the application of time frames. For example, the use of income parameters from July 1, 2010 to July 1, 2011 to calculate the NOI to derive the cap rate for sales occurring in the period July 1, 2011 to December 31, 2011, is flawed as there is a difference in timing by up to 6 months. The NOI is not reflective of the period when the transaction occurred. The Complainant proposes that the 12 month period used to determine the income to calculate the NOI should be the same as the 12 month period during which the sale occurred. For example the income parameters for the period July 1, 2011 to July 1, 2012 should be used for sales which occurred in that same 12 month period. Details on the Complainant's position are provided on pages 23 to 41 of Exhibit C1.

[17] A second concern expressed by the Complainant related to the practice of the City of Calgary to include portfolio sales in the derivation of the cap rate. The Complainant's primary concern with portfolio sales is the difficulty in determining what the actual value is for each property included in the portfolio. Supporting documentation for this position is provided on pages 44 to 77 of Exhibit C1.

[18] Page 26 of Exhibit C1 presents the parameters used by the City of Calgary for the income approach to assess downtown office buildings in the DT1 and DT2 zones. The cap rate by office classification for DT1 and DT2 is as follows:

<u>Office Classification</u>	<u>Cap Rate</u>
AA New/AA/A/A-	6.00%
B/B-	5.00%
C/C-	5.50%

[19] The Complainant reviewed the MNP Capitalization Rate Study (pages 80 to 108 of Exhibit C1) for the period July 1, 2011 to July 1, 2012. Their methodology excludes portfolio sales and calculates the NOI based on rental rates for the same 12 month period as the sales. The table on page 81 of Exhibit C1 presents particulars on the 5 sales in DT1 and DT2 on which the MNP study is based. The 5 sales include 3 Class A, 1 Class B and 1 Class C building. The median capitalization rate determined by the study is 6.02% which is rounded to 6.00%. The Complainant purposes this cap rate would be applied to all downtown office classifications.

[20] As additional evidence the Complainant reviewed the CBRE Canadian Cap Rate Study (page 258/259 Exhibit C1) for Q2 2012 which reported a range of 6.25% to 7.0% for downtown Class B buildings.

[21] In summary the Complainant argued that the MNP methodology determines a cap rate on consistent assumptions of 6.0% which is to be allied to the subject property.

Respondent's Position:

[22] The Respondent presented an argument in defence of the methodology used to

determine the cap rates approved in the income approach valuation for downtown office properties.

[23] A table titled 2013 Downtown Office Capitalization Rate Summary on page 54 of Exhibit R1 presented details on 16 transactions for Class A, B and C buildings reported for the period 2011 and 2012. An analysis by building class and year provided further specifics on the cap rate. There were 3 C class building transactions; 2 in 2012 and 1 in 2011; with a median cap rate of 4.92%. The mean and median cap rate is 5.61% for the 2 transactions reported in 2012.

[24] The table on page 55 of Exhibit R1 presented the details on the 2 Class 'C' transactions which were not part of a joint or portfolio sale. The cap rates calculated by the City were 5.61% and 4.22%.

Board's Reasons for Decision:

[25] The Respondent and Complainant outlined their respective positions on cap rate methodology which lead to the:

- 1) Respondent reporting a C Class cap rate median and mean of 5.61% which is rounded down to 5.50%.
- 2) Complainant reporting a 6.02% median cap rate regardless of building class.

[26] A review of the evidence and argument presented in respect of the C Class buildings determined:

- 1) The two parties reported a total of 3 transactions as comparables.
 - i. 1105 – 7 Av SW – November 2011 transaction provided by the Complainant is a 10,450 sq. ft. building with a reported cap rate of 10.55%;
 - ii. 816 – 7 Av SW – January 2012 transaction provided by the Respondent is a 27,203 sq. ft. building with a reported cap rate of 5.61%; and
 - iii. 910 – 7 Av SW – August 2011 transaction provided by the Respondent is a 145,251 sq. ft. building with a reported cap rate of 4.22%.
- 2) There are questions on each of the transactions which challenge the basis for inclusion as a comparable, specifically:
 - i. 1105 – 7 Av SW – the Respondent argued that the transaction was possibly land only;
 - ii. 816 – 7 Av SW – there are questions as to the income utilized in the calculation of the NOI; the purchaser reports in the Non Residential Property sales Questionnaire, which was provided to the Respondent, an income of \$762,434.30 (page 74 Exhibit C1), Commercial Edge reports an NOI of \$421,400 (page 241 Exhibit R1) and the Respondent in their cap rate analysis, used an assessed NOI of \$337,883 (page 55 Exhibit R1); and
 - iii. 910 – 7 Av SW – reported as part of 29 building portfolio acquisition, which included buildings in Toronto, Ottawa, Edmonton and Calgary, with a portfolio cap rate of 7.0%. No particulars on a building by

building basis were provided.

[27] For the sample of 3 Class 'C' buildings outlined above in paragraph [26] the median cap rate is 5.61% and the mean is 6.79%. Both of which are higher than the 5.50% used by the Respondent.

[28] Based on the evidence and arguments presented, the Board supports a cap rate of 6.0% in the determination of the assessment.

Issue – Vacancy Rate

Complainant's Position

[29] The Complainant reviewed the MNP "C" Class Office Vacancy Study on page 22 of Exhibit C1. The study reports a 9.08% vacancy based on a sample of 32 "C" class office properties in DT1, DT2 and DT3 zones.

Respondent's Position:

[30] The City of Calgary 2013 Downtown Office Vacancy Analysis C, D Class on page 51/52 of Exhibit R1, presented the vacancy study reported for a sample of 38 buildings. The mean vacancy rate for this sample is 6.79%.

Board's Reasons for Decision:

[31] The Complainant's analysis of the C Class vacancy which included all zones of downtown Calgary, reported a vacancy of 9.08%.

[32] A study prepared by the Respondent, referenced in paragraph [30], examined a sample of 38 buildings in DT1, DT2, DT3, DT8 and DT9 and reported a vacancy of 6.79%. If the sample is limited to DT2 which is the same location as the subject property the sample is reduced to 26 buildings and the vacancy rate is 7.4%.

[33] The subject property is located in DT2. When the Respondent's vacancy study is analyzed on the basis of this parameter the vacancy rate reported is 7.4%. There is no evidence which supports a DT2 vacancy rate of 9.0%.

[34] Based on the arguments and evidence presented the Board confirms the 6.75% vacancy rate.

Issue – Office Rental Rate

Complainant's Position

[35] The Complainant reviewed the table titled MNP's Lease Rate Analysis for "C" class buildings on the West Side of Downtown on page 20 of Exhibit C1. For the period September 2011 to July 2012 there were 6 lease transactions reported with lease rates ranging from \$9.00 psf to \$13.00 psf. The median rental rate was \$10.50 psf.

[36] Three of the 6 leases referred to in paragraph [33] were in the subject property with a mean rental rate of \$ 11.67 psf.

[37] A table titled MNP's Lease Rate Analysis for "C" Class Office Properties in DT1 and DT2 on page 21 of Exhibit C1 reported lease particulars on 48 leases with commencement dates in

the period July 2011 to July 2012. The median rental rate was \$13.00 psf and the mean rental rate was \$13.03 psf.

[38] In summary the Complainant argued that the lease rates in the west end of downtown are lower than the rates received for C class buildings elsewhere in the downtown. The analysis presented in paragraph [35] supports the requested office rental rate.

Respondent's Position:

[39] The Respondent on page 48 of Exhibit R1 presents a table titled the City of Calgary 2013 Downtown Office Rental Rate Analysis: C and C- buildings. The study provided lease particulars on 62 office leases with commencement dates in the period July 2011 to July 2012.

[40] The following table presents the rental rate analysis:

	2011 – 2012 Comm. Date	2012 Comm. Date
Number of Leases	62	29
Range	\$7.00-\$18.00 psf	\$9.00-\$17.00 psf
Mean Rental Rate	\$13.24 psf	\$13.59 psf
Median Rental Rate	\$13.15 psf	\$14.00 psf
Weighted Mean	\$12.91 psf	\$13.33 psf

Comm. Date: Commencement Date

[41] In summary the Respondent argued that the mean, median and weighted mean rental rate for the 29 leases with 2012 commencement dates all support the \$13.00 psf.

Board's Reasons for Decision:

[42] Both the Complainant's and Respondent's studies of leases in the period July 2011 to July 2012 report mean and median rental rates in the range of \$13.00 psf to of \$13.24 psf.

[43] Further an analysis of the Complainant's table of leasing activity in the subject property identified 3 leases with a 2012 commencement date. The rental rates are in the range from \$10.00 psf to \$13.00 psf with a median of \$12.00 psf and a mean of \$11.67 psf.

[44] Based on the arguments and evidence presented the Board confirms the \$13.00 psf rental rate for the office space.

DATED AT THE CITY OF CALGARY THIS 7th DAY OF November 2013.



Earl K. Williams

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure Subject Property Disclosure
2. C2	Complainant Rebuttal
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.*

FOR ADMINISTRATIVE USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	OFFICE	HIGH RISE	INCOME APPROACH	CAPITALIZATION RATE/VACANCY RATE/RENTAL RATE