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:

Banyan Tree Property Management Inc. (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER
J. Massey, BOARD MEMBER
R. Kodak, 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:	**112000104**
LOCATION ADDRESS:	**245 FORGE RD SE**
FILE NUMBER:	**70711**
ASSESSMENT:	**$5,920,000**

This complaint was heard on the 17th day of September, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8

Appeared on behalf of the Complainant:

- W. VanBruggen (MNP LLP)
- G. Worsley (MNP LLP)

Appeared on behalf of the Respondent:

- D. Gioia (City of Calgary)
- T. Johnson (City of Calgary)

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

[1] There were no concerns with the board as constituted.

[2] The Complainant has visited the site, while the Respondent has not.

[3] The parties have discussed the file.

[4] There were no preliminary matters. The merit hearing proceeded.

[5] The Complainant requested that C-2 from Hearing #70709 be carried forward to this hearing.

Property Description:

[6] The subject property is a 0.84 acre parcel located in the Fairview Industrial community in SE Calgary. The site is improved with a 2 storey lowrise suburban office building that was constructed in 1963 and a separate storage building that was constructed in 1998. Both buildings are classified as "A+" Quality. The office building contains 18,082 square feet (sf) of office space while the storage building is 1,625 sf. There is surface parking on site.

[7] The 2013 assessment was prepared using the Income Approach to Value, with a typical office space rental rate of $21.00 per square foot (psf) and typical storage space rental rate of $3.00 psf. Vacancy and non-recoverable expense allowances were deducted. The resulting net operating income was capitalized at the rate of 6.00% to arrive at an estimate of market value, for assessment purposes.

Issues:

[8] An "assessment amount" was identified on the Assessment Review Board Complaint Form as the matter that applies to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely: "the classification of the subject premise is unfair, inequitable and incorrect. The subject is currently classified as "A+" Quality with a market net rent rate of $21.00 psf, but should be classified as an "A-" Quality with a market net rent rate of $17.00 psf".

Complainant's Requested Value: $4,500,000 (Complaint Form)
$4,780,000 (Hearing)

Board's Decision:

[9] The 2013 assessment is reduced to $4,780,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from 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).

MGA requires that:

293(1) In preparing an 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.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

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, and

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

4(1) The valuation standard for a parcel of land is

(a) market value, or

(b) if the parcel is used for farming operations, agricultural use value.

Board's Decision in Respect of Each Matter or Issue:

Complainant's Position:

[10] The Complainant's Disclosure is labelled C-1.

[11] The Complainant, at pages 12 through 17, provided pictures of the interior and exterior of the subject.

[12] The Complainant at page 27, provided a table titled, Physical & Economic Characteristics/Quality Classification. The table identifies the physical attributes that the City of Calgary utilizes in the Quality classification process. The final step in the property stratification process is a review of the income generating capacity, through an analysis of rents and expenses, to assure accuracy of the initial classification.

[13] The Complainant, at page 28, provided a table titled, Year Of Construction. The table contains information on all A+ Quality suburban office buildings in the SE. The Complainant noted that the year of construction (YOC) ranged from 1982 to 2011 and the average YOC was 2006. The Complainant concluded the subject, which was constructed in 1963, is relatively old.

[14] The Complainant, at page 29, provided a table titled, Zoning. The table identifies the zoning of all A+ Quality suburban office properties in the SE. The Complainant noted the majority of the properties are zoned DC, while the subject is zoned IG. The Complainant concluded that because the subject is in an industrial zone, it is less attractive to potential tenants.

[15] The Complainant, at page 30, provided a table titled, Area. The table identifies the area of all A+ Quality buildings in the SE. The Complainant noted the buildings range in size from 2,332 sf to 356,020 sf. The Complainant concluded that the subject, which is 18,082 sf, is much smaller than 75% of the comparable properties.

[16] The Complainant, at pages 31 through 37, provided google maps to identify the location of all the SE comparables. The Complainant concluded that, 19 comparables are in superior locations, 12 comparables are in similar locations and 1 comparable is in an inferior location.

[17] The Complainant, at pages 38 through 52, provided pictures of the exterior of all of the A+ Quality comparables, in the SE, submitting they are superior to the subject..

[18] The Complainant, at page 53, provided its Qualitative Analysis, and concluded that the subject property is inferior in almost every way to the other A+ Quality properties and the only A+ Quality comparable similar to the subject is 3345 8 ST SE.

[19] The Complainant, at page 56, provided a table titled, A- Comparables. The table provides information on YOC, Net Rentable Area and Zoning for all of the A- Quality comparables in the SE. The Complainant concluded that the subject property, fits much closer in the range for YOC and net rentable area for A-Quality properties, than A+ properties.

[20] The Complainant, at pages 60 through 65, provided pictures of all of the A- Quality comparables in the SE, submitting they are similar to the subject.

[21] The Complainant, at page 66, provided a table which contains information on the sales of all A+, A, and B+ Quality suburban offices in the NE and SE. The Complainant noted the best comparable, located at 6010 12 ST SE sold for $199 psf, the median sale price of all the sales is $246 psf and the requested assessment is $264 psf.

Respondent's Position:

[22] The Respondent's Disclosure is labelled R-1.

[23] The Respondent, at pages 12 through 14, provided pictures of the exterior of the subject buildings, noting they had since been renovated.

[24] The Respondent, at page 35, provided a table titled, 2013 Suburban Office Rental Analysis: A+ Quality SE. The table contains 18 leases with start dates ranging from August 1, 2011 to June 1, 2012. The lease rates range from $12.50 to $25.00 psf. The median lease rate is $22.00 psf and the weighted mean of the lease rates is $20.51 psf. The Respondent noted the subject is assessed a market net rent rate of $21.00 psf.

[25] The Respondent, at page 37, provided a table titled, Equity Comparables. The table contains 4 equity comparables located in similar locations in the SE and all older than the subject. The Respondent noted they are all assessed a net market rent rate of $21.00 psf, the same as the subject.

Complainant's Rebuttal Position:

[26] The Complainant's Rebuttal Disclosure is labelled C-2 (70709)

[27] The Complainant, at page 25, provided a table titled, A+ Leasing for SE Office Properties, noting the weighted average of the 2011 lease rates is $22.38 psf and the weighted average of the 2012 lease rates is $18.41 psf. The Complainant concluded that, the market for A+ Quality suburban office space in the SE is declining.

[28] The Complainant, at page 170, provided CARB 72128P-2013, where the same A+ Leasing table had been presented in evidence. The CARB found that 4 properties, namely: 4000 4 ST SE, 815 MACDONALD AV SE, 15 SUNPARK PZ SE and 7175 12 ST SE "were not typical market leases or were not typical of the class of properties". The Complainant submitted that if those 6 leases were removed from the table, the weighted average of all of the remaining lease rates would be $19.11 psf and the median lease rate would be $19.00 psf. The Complainant submitted that maybe the assessed rate for A+ Quality suburban offices located in the SE should be $19.00 versus $21.00 psf.

Board's Reasons for Decision:

[29] The Board finds the subject has inferior physical characteristics to the A+ Quality comparables as clearly shown in the interior and exterior photographs. The subject location is difficult to access. The subject building is an older building that has had an addition and been renovated. The total rentable area is much smaller than the A+ Quality comparables, the floor plate is inferior and there are no tenant amenities. The subject has surface parking which is also inferior to the comparables.

[30] The Board finds the subject has the physical and economic characteristics of an A- Quality property.

[31] The market net rental rate to be used in the Income Approach is $17.00 psf.

DATED AT THE CITY OF CALGARY THIS 22nd **DAY OF** October **2013.**

B. Horrocks

B. Horrocks

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2 (70709)	Complainant Rebuttal

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 Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Office	Low Rise	Income Approach	Rent rate