



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:

***Kenrosa Holdings Ltd.(as represented by Assessment Advisory Group Inc.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***P. Petry, PRESIDING OFFICER
B Jerchel, BOARD MEMBER
E. Bruton, 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: 068036193

LOCATION ADDRESS: 111 3rd Avenue S.E.

FILE NUMBER: 71982

ASSESSMENT: \$3,720,000

This complaint was heard on the 6th day of August, 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:

- *D. Bowman, Assessment Advisory Group Inc.*

Appeared on behalf of the Respondent:

- *L. Wong, City of Calgary*

Property Description:

- [1] The subject is a C Class retail centre constructed in 1987. It consists of 17,695 sq. ft. with 8,954 sq. ft. on the main level and 8,741 sq. ft. on the lower level. The property is located in China Town near the core of downtown Calgary. The subject property has been assessed using the capitalized income approach.

Issue:

- [2] What is the appropriate vacancy allowance that should be applied to the subject property when using the capitalized net income approach to value?
- [3] Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB). The only issue, however, that the complainant sought to have the Composite Assessment Review Board (CARB) address in this hearing is that referred to above. The CARB has therefore, not addressed any of the other matters or issues initially raised in the Complaint.

Complainant's Requested Value:

- [4] The Complainant's request is that the assessment be reduced to \$2,620,000.

Board's Decision:

- [5] The CARB confirms the assessment at \$3,720,000.

Legislative Authority, Requirements and Considerations:

- [6] The Composite Assessment Review Board (CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:
- [7] *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).

- [8] For purposes of the hearing, the CARB will consider MGA Section 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*
- [9] 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:
- [10] *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*

Summary of the Party's Positions

Complainant

- [11] The Complainant presented a three year history of vacancy levels experienced by the subject property, which show vacancy levels in the subject property to be over 50% for 2010 and 2011 with only slight improvement to 48.81% in 2012. The Complainant also provided the Respondent's assessment detail for 2012, showing that the City of Calgary (city) recognized the vacancy issue last year by granting a an overall reduction of 20% to the assessment. The 2012 assessment had recognized the typical vacancy of 8% and additionally reduced the resulting typical value by a further 20% or a combined reduction of 28%. The Complainant suggested that a similar adjustment would be acceptable for the current year as well; however, the Respondent has not provided any adjustment at all despite vacancy levels within the subject continuing at the same levels that have been experienced over the past 4 years.
- [12] The Complainant produced rent rolls and other documentation in support of the vacancy summary and demonstrated that only one new lease has been signed in recent times. Therefore there is no reasonable explanation for the Respondent to discontinue the adjustment made previously.
- [13] The Complainant provided the city's 2012 vacancy rate analysis for China Town and the Downtown Core. This information shows vacancy rates on average to be in the 11% to 12% range and in contrast the subject's vacancy of 50% is far above the norm.
- [14] Reference was also made to CARB Decision 1115/2012, wherein the Board agreed that chronic vacancy should be recognized by granting a allowance of 20%. The Complainant urged the Board to do the same in this case but at 30%, which the

Complainant indicated would reduce the assessment to \$2,620,000.

Respondent

- [15] The Respondent indicated that it no longer recognizes chronic vacancy as such but rather concentrates on the underlying causes of such issues. In the subject case, the Respondent acknowledges that there are problems or issues with the building and have addressed this by reducing the subject's classification from a B class building in 2012 to a C class for the current assessment. Documentation was introduced to show this change in classification and the corresponding changes in rental rates. Rental rates for 2012 under B class were \$20 per sq. ft. for the main level and \$12 per sq. ft. for the lower level. Under the current assessment all space in C class buildings is assessed at \$15 per sq. ft.
- [16] The Complainant has argued that the year over year assessment has increased dramatically, however this is primarily due to the lowering of the capitalization rate (cap) from 7.5% to 6% this year. This level of cap rate is borne out by sales, however these sales have not been introduced as the cap rate is not under complaint.
- [17] The Respondent referred the CARB to the rent rolls and the actual income generated by the subject property. The rents currently in place range from a low of \$17 per sq. ft. to a high of \$52 per sq. ft. The Respondent had conducted an analysis to show that given the high rents that are achieved by the subject for units that are occupied, the property is able to achieve a higher net income than it is expected to achieve using typical parameters. This fact then negates any need to make further adjustments.

Findings and Reasons for the Board's Decision:

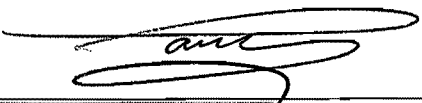

- [18] The CARB has carefully reviewed both party's evidence with respect to the question of whether there is justification to increase the typical vacancy allowance. On its face it appears that the subject property is suffering with a chronic vacancy issue and has been for some time. The unanswered question is why is this so? The Complainant failed to bring forward any information as to the efforts made by the owners to market the space available for lease. Nor did the Complainant show what lease arrangements and rates are being sought by the owners.
- [19] On the other hand, while the Respondent acknowledges that the subject building has "issues", it argues that these issues have been addressed by assigning the subject property to a lower classification. The CARB did not find this argument to be convincing as it appears from the evidence before the CARB that the only change brought about by the reclassification is a difference in rental rates. When this change is considered it would appear that by applying the Class C constant rate of \$15 per sq. ft. to all space, this rate yields approximately the same net income that the previous split rates under class B would yield. The Respondent indicated that the typical vacancy allowance and the cap rate are the same for both B and C

classifications.

- [20] The CARB did not have any specific evidence as to what the issues or deficiencies of the subject building really are and therefore cannot address the issue or reasons for this change in classification.
- [21] In absence of marketing evidence and asking rate data for the subject, the CARB was not able to determine the cause of the subject property's vacancy issue. The CARB believes that the subject's vacancy levels would be an important consideration of any potential purchaser; however, such a concern may be overridden by the very lucrative rents currently being achieved and the potential of reducing the current vacancy levels through aggressive marketing of available space.
- [22] The CARB has not been informed of why the subject property has high vacancy levels but understands that in spite of this the subject property is achieving net income above typical. The CARB therefore finds that the actual vacancy levels experienced over the past three to four years is insufficient evidence to support an increase to the vacancy allowance that has been applied by the Assessor in this case.
- [23] The CARB's decision therefore is to confirm the assessment at \$3,720,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 14 DAY OF August 2013.



Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
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

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Retail Centre	China Town Retail	Vacancy Rate	Typical Income

