



Calgary Assessment Review Board

DECISION WITH REASONS

In the matter of a preliminary decision related to 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:

Tarjan Enterprises Ltd. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Weleschuk, PRESIDING OFFICER

H. Ang, BOARD MEMBER

A. Huskinson, 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:	067095497
LOCATION ADDRESS:	547 11 Av SW
FILE NUMBER:	72581
ASSESSMENT:	\$6,340,000

The Complaint was heard on the 16th day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212-31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *A. Iazard*

Appeared on behalf of the Respondent:

- *C. Fox*
- *M. Byrne*

Procedural or Jurisdictional Matters:

[1] Neither party objected to the Panel constituted to hear this matter and make a decision on the assessment.

[2] Both parties requested that the evidence, questions, answers and argument related to the capitalization rate issue considered in Complaint File No. 72151 be carried forward to this hearing. This includes evidence packages referred to as Exhibits C2, C3 and C6. The Board agreed to carry forward the evidence and argument, and to maintain the reference to Exhibits C2, C3 and C6. The only new evidence presented by the Complainant is Exhibit C1, the evidence specific to this property and complaint. Exhibit R1 is similar to but not exactly the same as presented in File 72151, so is also unique to this complaint.

Property Description:

[3] The subject property is a two-storey B quality retail/office building located in the Beltline District (specifically in the BL3 sub-district) constructed in 1989. The building has a total of 20,884 square feet (SF) of assessed space allocated to various retail/restaurant uses on the main level, and offices on the second level. The 2013 Assessment is calculated using the income approach. The 900 SF of "fast food restaurant" and 5,035 SF of "restaurant" space is assigned a market rental rate of \$23/SF. The 5,556 SF of "retail" space is assigned a market rental rate of \$22/SF. Both these space components are assigned a 9.5% vacancy rate, \$12/SF operating costs and 1% non-recoverable rate. The second floor "office space" is assigned a \$15/SF market rental rate, with 8% vacancy, \$14/SF operating costs and 1% non-recoverable rate. The capitalization rate used is 5.25%. The 2013 assessment calculated using these rates is \$6,340,000.

Issues:

[4] Both parties addressed a number of topics, but only those topics that are germane to the issues and supported by evidence are discussed in this decision. All these issues relate to whether the 2013 Assessment is correct.

1. What is the correct rental rate for the "office" space?
2. What is the correct capitalization rate for the subject B retail/office property?
3. Is the subject property equitably assessed?

Complainant's Requested Value: \$5,410,000

Board's Decision:

[5] The Board reduces the 2013 Assessment to \$5,410,000.

Legislative Authority:

[6] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act, might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

[7] The Board notes that the words "fair" and "equitable" are not defined in the MGA or its Regulations. Equitable is defined in Black's Law Dictionary (Seventh Edition, West Group, St. Paul, Minnesota, 1999) as "just, conformable to principles of justice and right". For the purpose of this decision, the Board considers an assessment that reflects market value to be "fair and equitable" as the taxpayer is being assessed in accordance with the assessment standard.

Issue 1: What is the correct rental rate for the "office" space?**Complainant's Position**

[8] The Complainant took the position that because the range of rental rates in the City's 2013 Beltline Office Rental Rate Summary (page 26-31, Exhibit C1) was quite wide, using a median value corrected for the rates that were at the extremes, both high and low. A mean includes all the data, including the "outliers", which skew the result, and is not an appropriate reflection of the typical rental rate.

[9] The rental rate data (summarized on page 30-31, Exhibit C1) demonstrates a median of \$14/SF when using either just the 2012 data or the 2011 and 2012 data. This supports the Complainant's requested rental rate of \$14/SF for the subject second storey office space.

[10] The Complainant argued that the City typically uses a median value to determine the rental rate. In this situation, the City appears to use the mean or weighted mean to support the \$15/SF assigned to the "office" category.

Respondent's Position

[11] The Respondent argued that the municipality has the opportunity to select the appropriate rental rate, based on its analysis of the data, and that it is not bound by any specific statistical methodology. Previous Board Decisions were presented in Exhibit R1 to support the position that the municipality can apply any appropriate statistical analysis to derive its rates.

[12] The City's analysis, as presented on page 26-31 in Exhibit C1 support the \$15/SF rental rate using both the mean and weighted mean of the 2012 rental data. The market appears to be improving, as the median, mean and weighted mean for the last three months of rental data (April to July, 2012) are all over \$15/SF. This further supports the \$15/SF as reflecting the current rental rate as of July 1, 2012.

The Board's Findings on this Issue:

[13] The Board heard much argument about which statistical method results in a rate that best reflects the current market. The Board acknowledges that the municipality is able to select the methodology it believes results in a rate that best reflects the market as of the valuation date.

[14] The Board considered the rental data presented. This dataset includes large differences in the size of the space rented and terms of the lease (years). Stratification of the data by these factors may have explained some of the large difference in the range of rental rates. However, both parties relied on the data, only stratifying the analysis by lease commencement date. This is the evidence before the Board.

[15] The issue before the Board is to determine the typical rental rate for assessment purposes. Typically, these rates are derived from at least a year's worth of data, unless the market is experiencing some extra-ordinary influence which would support a shorter or longer set of data. No evidence was presented to support that the office rental market in the subject area was experiencing any sort of extra-ordinary influences.

[16] From the data presented, either including the 2011 and 2012 or just the 2012 data, the Board concludes that a typical office rental rate for the subject property is \$14/SF.

Issue 2: What is the correct capitalization rate for the subject B retail/office property?

Complainant's Position

[17] The Complainant argued that the 5.25% capitalization rate used by the City to calculate the 2013 Assessment was not supported by any study.

[18] The Complainant presented its 2013 Beltline Retail Capitalization Rate Summary (page 41, Exhibit C1) consisting of one AA Quality retail property, one A2 Quality retail property and two B Quality retail properties to support a rate of 6.00 for the subject retail/office property. Supporting documents and further analysis is presented in Exhibit C2.

[19] Assessment to Sales Ratio (ASR) analysis were included in the capitalization rate tables presented by the Complainant to demonstrate the validity of their capitalization rate calculations.

[20] In argument, the Complainant presented a number of previous Board decisions supporting the requested capitalization rate.

Respondent's Position

[21] The Respondent argued that the AA and A2 quality properties in the Complainant's retail capitalization rate study are not typical properties and should not be considered by the Board. The Respondent presented documents and argued that the AA property (100, 1410 1 St SE) was purchased by the adjacent owner as a land assembly, and that the casino property (218 18 Av SE) also included two surface parking lots that are required as part of the casino license and are not properly valued in the capitalization rate calculation.

[22] The Respondent presented a number of previous Board Decisions related to the use of the Complainant's retail sales as capitalization rate comparables.

[23] The Respondent presented a summary table (page 105, Exhibit R1) of the 2013 Beltline Retail Capitalization Rate Summary, which includes three of the four sales used by the Complainant in their retail capitalization rate study. The median capitalization rate for these three sales is 5.81%.

[24] In response to questions, the Respondent stated that the 5.25% capitalization rate used in the assessment calculation for the subject retail B retail/office property is determined using the Beltline B Quality Office Capitalization Rate Study. Based on this study, as well as other capitalization rates derived for other types of properties in areas adjacent to the Beltline, the City developed a table of capitalization rates for various classes of office and retail properties, and applied these to the Beltline District. The 5.25% rate is applied to both B quality office and retail properties in the Beltline.

Board Findings on this Issue

[25] The Board acknowledges that there are a very limited number of comparable sales available to indicate a capitalization rate.

[26] The Respondent and Complainant presented similar analysis for their respective Beltline Retail Capitalization Rate analysis. Because there are only three or four sales that are somewhat comparable to the subject, the analysis is very sensitive to which sales are included or excluded from the analysis.

[27] Based on the capitalization rates presented, the Board finds that a capitalization rate of 6.00% is more reflective of the subject B quality retail/office property.

Issue 3: Is the subject property equitably assessed?

[28] Neither party presented any equity comparables. The equity argument presented by the Respondent is not sufficient to demonstrate that using a capitalization rate of 5.25% achieves equity. The Board finds that there is insufficient evidence to consider whether the subject is equitably assessed.

Board's Decision:

[29] The Board concludes that the appropriate rental rate for the "office" component is \$14/SF and that a capitalization rate of 6% reflects a typical rate for the subject property. Applying these factors into the income approach calculation results in the 2013 Assessment of \$5,410,000.

The Board reduces the 2013 Assessment to \$5,410,000.

DATED AT THE CITY OF CALGARY THIS 19th DAY OF November 2013.



Ivan Weleschuk
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure – 2013 Beltline Retail Cap Analysis
3. C3	Complainant Disclosure – Evidence Appendix
6. C6	Complainant Disclosure – Rebuttal Submission
7. 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.*

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Subject	Type	Sub-Type	Issue	Sub-Issue
CARB	Retail/office	Stand-alone	Office rental rate Capitalization rate	Equity