



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:

***W.K. Beattie Holdings Ltd.,
(as represented by: MNP LLP.),***

COMPLAINANT

and

***The City of Calgary,
RESPONDENT***

before:

<i>W. Krynski,</i>	<i>PRESIDING OFFICER</i>
<i>P. McKenna,</i>	<i>BOARD MEMBER</i>
<i>R. Deschaine,</i>	<i>BOARD MEMBER</i>

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 2014 Assessment Roll as follows:

ROLL NUMBER:	138152806
LOCATION ADDRESS:	3165 114 Avenue SE
FILE NUMBER:	74852
ASSESSMENT:	5,760,000

This complaint was heard on 15th day of July, 2014 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:

- *W. Vanbruggen - Agent MNPLLP*
- *G. Worsely - Agent MNPLLP*

Appeared on behalf of the Respondent:

- *T. Neal – Assessor, City of Calgary*
- *R. Tharakan - Assessor, City of Calgary*

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

[1] Neither party objected to the composition of the Board, as introduced at the outset of the Hearing.

[2] At the outset of the Hearing, both parties requested that the Capitalization Rate (cap. rate) issue, which is germane to the subject Complaint, be cross-referenced with Complaint #74887.

Property Description:

[3] The Subject Property consists of a 1.01 acre parcel of land zoned "Industrial-Business", located in the Community of Shepard Industrial. The parcel is improved with a 19,832 square foot (sf.) suburban office building, which was constructed in 2001, and is classified as being "A+" quality.

Issues:

[4] The Complainant addressed the following issues:

- 1) The subject property is assessed on the Income Valuation Approach. The Complainant contends that the Capitalization Rate (cap. rate) applied by the Assessor is incorrect, thereby resulting in an erroneous assessment.
- 2) The Complainant contends that the assessed A+ quality class is incorrect. The correct quality rating should be A class.
- 3) The Complainant contends that the assessed area of 19,832 sf. is incorrect. The correct rentable area is 17,848 sf.
- 4) The Complainant contends that the assessed vacancy rate of 2% is incorrect. The appropriate vacancy rate would be 4%.

Complainant's Requested Value: 3,320,000 or 4,240,000

Board's Decision:

[5] For the reasons outlined herein, the Board reduces the assessment to 3,730,000.

Legislative Authority, Requirements and Considerations:

[6] The Calgary Composite Assessment Review Board takes authority from the Act and associated Regulations.

Issue 1: Capitalization Rate**Complainant's Position:**

[7] The Complainant's evidence and disclosure document was presented and labelled Exhibit C1 (450 pgs.). For the purposes of the capitalization rate issue, the document references herein (including page numbers) relate to those submitted by both parties, at the July 14, 2013 Hearing for the lead file (#74887). The Complainant's contention is that the assessed 6% cap. rate is incorrect; the Complainant submits that the appropriate cap. rate is 6.75%. All other income coefficients are considered to be correct.

[8] Various maps, aerals and photographs were provided, to offer a visualization of the location and building characteristics of the subject Property.

[9] The Complainant referenced "MNP's Suburban Capitalization Rate Study" [C1; Pg.21], consisting of six office property transactions that occurred between July 2012 and May 2013. The Study revealed derived cap. rates ranging from 6.23% to 7.27%, with average and median values of 6.74% and 6.78% respectively. The Complainant reasoned that based on the foregoing results, a cap. rate of 6.75% is in order.

[10] The Complainant further noted that 4 of the 6 sales in the MNP study are also utilized by the City in their analysis. The main reason for the differing results is that the MNP analysis utilized a \$14.00 typical rent in calculating the typical net operating incomes (NOI's) in the sale analysis, whereas the City employed a \$13.00 typical rental rate in determining their NOI's.

[11] The Complainant further explained that, within the cap. rate analysis process, the City's methodology of determining typical NOI's is to employ income parameters from the previous calendar year (January to December). The MNP methodology differs in that, for the same sale, MNP employs data from the previous assessment period (July to July). The Complainant reasons that the MNP methodology uses more current data, thereby producing a more accurate result.

[12] Finally, in Rebuttal Document [C2; 39 Pgs.), the Complainant references a number of Assessment to Sale Ratio (ASR) charts, wherein various scenarios are provided utilizing variations of MNP and City sales, both with and without time adjustments to the sales.

Respondent's Position:

[13] The Respondent submitted evidentiary documentation, which was labelled Exhibit R1 (529 pgs.). Various maps, aerals and photographs were provided, to offer a visualization of the location and building characteristics of the subject Property.

[14] The Respondent provided a detailed explanation of the subject assessment [R1; p. 9].

[15] In support of the applied 6% cap. rate, the Respondent referenced the City's "2014 Suburban Office Capitalization Rate Study - A Quality" [R1; pg.27]. Five Suburban office sales were analysed with sale dates ranging from July 2012 to May 2013, and typical cap. rates ranging from 5.70% to 6.20%. The Respondent reasoned that the results readily supported the assessed 6% cap. rate.

[16] Four of the five sales were included in the MNP Study. The sale at 14505 Bannister Rd. SE was not included in the MNP Study, as it was deemed by MNP to be a portfolio transaction. The Respondent explained that the sale was included in the City Analyses, as discussions with the purchaser (Dundee REIT) confirmed that the sale price was negotiated on individual property merits, exclusive of the portfolio nature of the sale, and was therefore considered an arms-length transaction.

[17] The Respondent provided a Response to the Complainant's Capitalization Rate Study [R1; Pgs. 29-31], which presents a number of contended errors in the MNP study. Of particular mention was a capital expense of \$1,200,000 for roof replacement that the Respondent argued should have been factored into the sale price for sale #1 (1020 68 Ave. NE). Additionally, Sale #5 (808 55 Ave. NE), should, in the Respondent's opinion, be excluded from the MNP Study, as it involved a vesting order, which translated into a Vendor Take-back mortgage two months following the sale, rendering the sale a non arms-length transaction.

[18] Additionally, the Respondent referenced an ASR analysis and Sale Price Trend Line provided to test the City's cap. rate accuracy [R1; Pg. 32-33]. Testing the ASR results for the five sales, without time adjustments to the sale prices, yielded mean and median ASR's of 1.04. With time adjustment to the sale prices (+1.5% per Month), mean and median ASR's were shown to be 0.96. Either way, the Respondent notes, the 6.0% cap. rate applied, produces an accurate assessment.

[19] In further support of the assessed 6% cap. rate, the Respondent referenced the Colliers Q3, 2013 Suburban Office Capitalization Rate Report [R1; Pg.192], indicating cap. rates for A class suburban office properties in Calgary, ranging from 5.50% to 5.75%. A similar report from CBRE [R1; Pg. 189], reports a cap. rate range of 5.75% to 6.25% for the same time period. The Respondent reasons that this data, although third party information, provides an industry perspective, that supports the assessed rate.

Board's Reasons for Decision:

[20] There was insufficient market evidence from the Complainant to convince the Board that a variance to the capitalization rate is justified.

[21] Considerable evidence and argument was provided by both parties, as to each other's perceptions regarding correct methodology for calculating capitalization rates. While the cap. rate is an integral component of the income approach valuation process, it is, nevertheless, a single component among the various employed in the income capitalization function.

[22] Whether a Complainant disputes the accuracy of a single component of a valuation process (ie. Cap. Rate within the Income Approach), or the entire process itself for that matter, the onus is on the Complainant to prove that their request results in a value that is a) more equitable, and/or b) reflective of a more accurate market value, than the original assessment.

[23] The Board gave consideration to the various Assessment to Sales Ratio studies provided by both parties. ASR studies can provide a valuable insight into the "value to market" relationships for groups of properties, but the Board was confounded by the vastly differing time

adjustment results advanced by either party. The MNP study suggests negative time adjustments (ie. Declining market) to adjust sale prices to the valuation date of July 1, 2013, while the City study contemplates positive time adjustments (increasing market) for the same time frame. The Board finds little credibility in the time adjustment analyses from either party, perhaps due to the limited size of data sets used.

[24] The test of assessment accuracy for income producing properties, comes not in the testing of individual components, but rather through the relationship between the final assessed value, (resulting from the composite interaction of all the components), and the market place, ie. sales.

[25] The test for accuracy in support of the Complainant's requested value, were various versions of ASR analyses, which, based on questionable time adjustments, renders them to be of limited value.

[26] The Board found some merit in the Respondent's critique of the MNP Capitalization Rate Study, wherein a number of perceived flaws in the data and analysis was revealed.

[27] The Board gave consideration to the two most current sales, each indicating cap. rates of 6.09%, and providing support for the 6% assessed rate.

[28] Having considered the evidence and argument as presented by both parties, the Board does not find the Complainant's evidence sufficiently compelling to warrant a variance in the capitalization rate.

Issue 2: Quality Class: A+ vs. A-

Complainant's Position:

[29] In support of their position that the subject property has been incorrectly classed as A+ quality, the Complainant references a summary chart "A- Class Office Buildings" [C1; Pg. 27], of properties that are thought to be similar to the subject, yet classified by the City as A- quality.

[30] The Complainant focused on two property characteristics: year of construction (YOC) and rentable area. The summary chart contains seven office properties with YOC's ranging from 1998 to 2007, and areas ranging from 12,620 sf. to 40,916 sf. The Complainant reasons that the subject, with a YOC of 2001 and area of 17,848 sf., is reflective of these comparable properties, and should therefore, be re-classified as A- quality.

[31] Photos and Property Detail Reports were provided in support of the 7 comparable property assessments [C1; Pgs. 28-42].

[32] Finally, the Complainant referenced two property sales of A- class office properties [C1; Pg.43]. It was argued that the two reasonably current transactions of somewhat larger office properties, yet otherwise similar to the subject in physical characteristics, sold for an average value of \$203.38. This compares to the subject's current assessment at \$290.34 psf.

Respondent's Position:

[33] The Respondent referenced their evidence package labelled Exhibit R1 (529 Pgs.).

[34] In support of the A+ classification of the subject property, and associated \$22.00 psf. rental rate, the Respondent presented the Complainant's chart of comparables, along with their associated assessment calculations [R1; Pgs. 72-87]. The Respondent critiqued the MNP

comparables as being generally of a lesser quality than the subject.

[35] With regards to the sales referenced by the Complainant, the Respondent takes the position that the sales are of a lesser quality, and are characterized as being more office/warehouse type of properties, versus the subject's straight "office" category [R1; Pgs. 88-92].

Board Reasons for Decision:

[36] The Board reviewed the evidence presented, with a focus on the physical characteristics of the subject office property. Particular notice was made of the construction style and quality of the subject building's construction, and architectural style, which appears to be more consistent with the requested A- class, then the currently assessed A+ class.

[37] Consideration was given to the sale transactions in the MNP evidence. The two properties, bear a reasonable similarity to the subject, and are categorized by the City as being A- quality. The average sale price was indicated as being \$203.38 psf. while the subject is assessed at \$290.34 psf.

[38] The Board found the Complainant's evidence to be sufficiently compelling to change the quality class from A+ to A-.

Issue 3: Assessed area

Complainant's Position:

[39] The City has assessed 13,072 sf. of office space on the main and second floors, and 6,760 sf. of office below grade, for a total assessed area of 19,832 sf. The Complainant contends that above ground office space should total 13,114 sf. while the space below grade consists of 953 sf. of office space and 3,782 sf. of storage space, for a total assessable area of 17,848 sf. This is predicated on floor plans prepared by Measure Masters [C1; Pgs. 23-24].

[40] The Complainant further argues that the 3,782 sf. of storage space should be assessed at the typical storage rental rate of \$3.00 psf.

Respondent's Position:

[41] The Respondent explained that rentable areas for assessment purposes are generally predicated on Assessment Requests for Information (ARFI) and associated rent rolls. Reference was made to the subject ARFI and rent roll [R1; Pgs.17-20], which was received by the City April 5, 2013. The rentable area reported was 18,342 sf.

[42] Additionally, the Respondent referred to a chart summarizing reported ARFI areas [R1; Pg.23], from 2009 to 2014, all with varying areas, ranging from 14,066 sf. to 19,967 sf.

[43] Various leasing promotions for the subject property from Barclay Real Estate were submitted [R1; Pgs 40-55], wherein a total rentable area of 19,600 sf. was being offered for rent.

[44] In respect of the storage space argument, the Respondent maintained that the area in question has the capacity to be utilized as office space. The area is being assessed at an \$11.00 psf. typical below grade office rate, and a *post facto* lease for the space, dated Dec. 2013 [R1; Pg. 36] at \$12.00 psf. supports the assessed \$11.00 rate.

Board Reasons for Decision:

[45] The vast variance in information coming from both parties presented a challenge to the Board in resolving this issue. The Respondent maintains that assessable areas are predicated on ARFI and rent roll information from the owner; however, the City's evidence reflects various differing areas and none of the provided ARFI's or rent rolls reflect the current assessed area.

[46] The Complainant, on the other hand references building area measurements prepared by a professional organization (Measure Masters); however, the document is labelled "Proposal". The building was in a state of flux during the 2013 year, as it was being converted from a single tenant owner-occupied building to being multi-tenanted. The question is, "what was the condition of the building on Dec. 31, 2013 (the regulated condition date)?"

[47] The Board relied on the Barclay Real Estate marketing document for the subject property [R1;pgs. 48-55], reconciling it with the Measure Masters document [C1; Pg. 23]. While the areas indicated cannot be definitively pegged to Dec. 31, 2013, referencing this back to the 2014 ARFI, indicates leases were signed in January and February of 2014, suggesting that the interior renovations, on a balance of probabilities, had been completed by Dec. 31, 2013.

[48] The Board finds the assessable areas as follows:

- Total assessable office area is 6,649 sf. on main floor and 6,465 sf. on second floor, for a total of 13,114 sf. of above ground office space, and 952 sf. of lower level office.
- Total assessable storage space area is 3,782 sf., all on the lower level.
- Total assessable area of the building is 17,848 sf.

Issue 3: Vacancy Rate**Complainant's Position:**

[49] The City has applied a 2% vacancy rate in the assessment of all "A" class office properties. MNP has provided their own analysis [C1; Pg.50], consisting of 31 A and A+ suburban office properties, which suggests the correct vacancy rate should be 4%.

[50] The Complainant argued that the MNP study employs the exact same data set as the City's analysis, however, with the exclusion of eight Quarry Park office buildings. It was noted that for other suburban office income coefficients other than vacancy rate, the City has segmented Quarry Park to having its' own unique coefficients, therefore vacancy rate analyses should do the same. Removing Quarry Park from the data set results in an indicated vacancy rate of 3.85%, rounded to 4%.

Respondent's Position:

[51] The Respondent rebutted by arguing that while Quarry Park office properties are valued by applying typical rents and cap. rates unique to their distinct neighbourhood, vacancy (along with other coefficients) is determined on a broader, quadrant-wide scale, as the properties compete for tenants on a broad quadrant level basis. Notwithstanding this, the Respondent argued that the requested change in vacancy rate from 2% to 4% results in a change to the subject assessment of less than 5%, and is therefore within reasonable assessment tolerances.

Board Reasons for Decision:

[52] Assessments are prepared on a mass appraisal format. The Board finds that income coefficients such as vacancy rates are typically measured on a broader basis than at the community level. The Board concurs with the City that, from a vacancy perspective, properties compete with each other on a broader market level.

[53] The Board did not find the Complainant's evidence and argument sufficiently compelling to justify a change in the vacancy rate.


Conclusion:

[54] On review and consideration of the evidence before it in these issues, the Board finds that, with respect to:

- **Issue 1: Capitalization Rate:** There was insufficient evidence to vary the assessment.
- **Issue 2: Quality Class:** The Board is in agreement with the Complainant that the appropriate quality class for the subject is A-
- **Issue 3: Assessed area:** The Board accepts the Complainant's position with respect to assessed area, and makes the appropriate adjustments.
- **Issue 4: Vacancy Rate:** The Board did not find the evidence sufficiently compelling to change the vacancy rate.

[55] For the reasons indicated, the assessment is reduced to 3,730,000.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF August 2014.


Walter F. Krysiniski
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. 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	Commercial	Suburban Office	Capitalization Rate / Quality Class/vacancy rate/Assessed Area	