

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:

***Newvest Realty Corporation,
(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: 091002303

LOCATION ADDRESS: 807 42 Avenue SE

FILE NUMBER: 74864

ASSESSMENT: 21,070,000

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 MNP_{LLP}*
- *G. Worseley*

Appeared on behalf of the Respondent:

- *T. Neal – 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 issue, which is germane to the subject Complaint, be cross-referenced with Complaint #74887.
- [3] Additionally, the Complainant requested that the vacancy issue be cross-referenced to that of Complaint #74852.

Property Description:

- [4] The Subject Property, known as Vintage Park, consists of a 4.11 acre parcel of land zoned "Industrial - Business", located in the Community of Highfield. The parcel is improved with three identical low-rise office buildings totalling 77,940 square feet (sf.) of net rentable area. The buildings were constructed in 2000, and are classified as being "A-" quality.

Issues:

- [5] 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 B+ class.
 - 3) The assessed vacancy rate of 2% is incorrect. The correct rate should be split between 4% and 9% for different portions.
 - 4) 32,954 sf. of Office space is considered to be below ground, and should therefore be assessed as such.

Complainant's Requested Value: 14,690,000 or 15,200,000 or 18,030,000 [C1; Pg. 6]

Board's Decision:

- [6] For the reasons outlined herein, the Board confirms the assessment at 21,070,000.

Legislative Authority, Requirements and Considerations:

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

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

[8] The Complainant's evidence and disclosure document was presented and labelled Exhibit C1 (457 pgs.). For the purposes of the cap. rate issue, document references, including page numbers, relate to those submitted by both parties, for the lead file (#74887). In respect of the cap. rate that is applied in the Income Approach valuation, the Complainant contends that the correct cap. rate should not be 6%, but rather 6.75%, while all other income coefficients are deemed to be correct.

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

[10] 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.

[11] 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.

[12] 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 year (July to July). The Complainant reasons that the MNP methodology uses more current data, thereby producing a more accurate result.

[13] 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:

[14] The Respondent submitted evidentiary documentation, which was labelled Exhibit R1 (380 pgs.). Various maps, aerials and photographs were provided, to offer a visualization of the location and building characteristics of the subject Property.

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

[16] 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.

[17] 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.

[18] The Respondent provided a Response to the Complainant's Capitalization Rate Study [R1; Pgs. 29-31], wherein a number of contended flaws in the MNP study are presented. 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. Additionally, Sale #5 at 808 55 Ave. NE, in the Respondent's opinion, should 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 non arms-length.

[19] 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.

[20] 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:

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

[22] 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.

[23] 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.

[24] 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.

[25] 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.

[26] 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.

[27] 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.

[28] 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.

[29] 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. B+

Complainant's Position:

[30] In support of their position that the subject property has been incorrectly classed as A-quality, the Complainant referenced a summary chart "Comparing YOC, Area and Zoning" [C1; Pg. 51], of properties that are thought to be similar to the subject, yet classified by the City as B+ quality.

[31] The Complainant focuses on two property characteristics: year of construction (YOC) and rentable area. The summary chart contains six office properties with YOC's ranging from 1967 to 2000, and areas ranging from 16,135 sf. to 57,677 sf. The Complainant reasons that the subject, with a YOC of 2000 and area of 77,490 sf., is reflective of these comparable properties, and should therefore be re-classified as B quality.

[32] Photos and Property Detail Reports were provided in support of the 8 comparable property assessments [C1; Pgs. 31-50].

[33] Additionally, the Complainant argued that the subject properties, being constructed in the year 2000, were not required by Building Code to install fire sprinklers. This, the Complainant reasoned, causes hardship for the landlord in attracting tenants and achieving market rents, all of which suggests lowering the quality class to B+.

[34] Photos and Property Detail Reports were provided in support of the 8 comparable property assessments [C1; Pgs. 31-50].

Respondent's Position:

[35] The Respondent referenced their evidence package labelled Exhibit R1 (458 Pgs.). Various maps and photographs were provided to offer a visualization of the location and building characteristics of the subject Property.

[36] The Respondent critiqued the Complainant's assessment comparable analysis as being of a lesser quality and lacking in detail, having been based solely on YOC and area, ignoring other property characteristics.

[37] In support of the A- classification of the subject property, and associated \$17.00 psf. rental rate, the Respondent presented Assessment Requests for Information (ARFI's) and rent rolls from the subject property, for the years 2013 and 2014 [R1; Pgs.20-35]. The Respondent reasoned that all physical and locational characteristics that comprise a quality class, manifest themselves in the ability of the property to generate income, ie: vacancy and rental rate.

[38] The Respondent emphasized the fact that the subject property displays 0% vacancy for the two years reported, and that base rents ranged from \$16.00 to \$24.40, with an average of \$19.19. This, the Respondent submitted, clearly supports the A- classification and associated \$17.00 typical rental rate.

[39] Also presented were Industry advertisements offering sublease space for rent in the subject building [R1; Pgs.36-39], wherein the subject is described as an A quality office building.

Board Reasons for Decision:

[40] 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. The Board is in agreement with the Respondent that physical and locational features that go into determining quality class, will typically manifest themselves in the property's income generating capacity. From the evidence provided, the income and vacancy status of the subject property falls more in line with the A group of offices than the requested B quality.

[41] The Board did not find the Complainant's evidence to be sufficiently compelling to change the quality class from A- to B+.

Issue 3: Vacancy Rate

Complainant's Position:

[42] The Complainant requested that the vacancy issue be cross-referenced to that of File #74852. All references to documents and page numbers herein, refer to documents submitted in the course of Hearing #74852.

[43] 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%.

[44] 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%.

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Respondent's Position:

[46] 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:

[47] 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.

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

Issue 4: Office Space Allocation**Complainant's Position:**

[49] The Complainant argues that 32,954 sf. of Office space is considered to be below ground and should therefore be assessed as such, at an \$11.00 psf. rate.

[50] In support of this position, a number of photos and associated Assessment Explanation Supplements were submitted, of properties considered similar to the subject, wherein the \$11.00 basement office rate is applied [C1; Pgs. 63-83].

Respondent's Position:

[51] The Respondent rebutted by noting that while the Comparables provided by the Complainant indicated portions of the office space were below grade, the subject properties differ, in that the topography of the subject lands reflects a gradually sloped terrain, such that basement windows are, for the most part, full length window. The comparables, on the other hand, appear to be partially below ground with only 2 to 3 foot window slits in the above ground portion. The Respondent argued that a comparison of the subject and comparables photos, readily reflects the difference.

[52] Further to this, the Respondent compared the referenced below grade spaces to the rent rolls for the subject, which indicated the spaces to be renting at \$15.00 to \$17.00 psf., well above the typical \$11.00 below grade office rate.

Board Reasons for Decision:

[53] The Board reviewed all the photos in evidence on this issue, and was able to conclude that the subject walls appeared full length notwithstanding the sloping topography, while the comparables' walls were definitely partially below grade, with windows being very minimal or non-existent.

[54] The Board did not find the Complainant's evidence sufficiently compelling to justify a change in the assessed office rate.

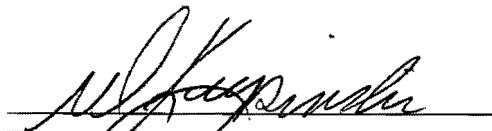
Conclusion:

[55] 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:** There was insufficient evidence to vary the assessment.
- **Issue 3: Vacancy Rate:** There was insufficient evidence to vary the assessment.
- **Issue 4: Office Space Allocation:** There was insufficient evidence to vary the assessment.

[56] The assessment is confirmed at 21,070,000.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF August 2014.


Walter F. Krynski
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	Bsmt. Office space