



## 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:

***TH Property Inc. (Represented by AEC Property Tax Solutions), COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before:

***W. Kipp, PRESIDING OFFICER***

***I. Fraser, BOARD MEMBER***

***P. Pask, 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 2014 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>078001708</b>
<b>LOCATION ADDRESS:</b>	<b>1902 – 11 Street SE, Calgary AB</b>
<b>FILE NUMBER:</b>	<b>76113</b>
<b>ASSESSMENT:</b>	<b>\$7,730,000</b>

This complaint was heard by a Composite Assessment Review Board (CARB) on the 7<sup>th</sup> day of August, 2014 in Boardroom 9 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- N. Laird Agent, AEC Property Tax Solutions
- S. Rickard Agent, AEC Property Tax Solutions

Appeared on behalf of the Respondent:

- L. Dunbar-Proctor Assessor, The City of Calgary

**Board’s Decision in Respect of Procedural or Jurisdictional Matters:**

[1] Pursuant to legislation regarding assessment complaints and assessment review board responsibility, the CARB reviewed the complaint file and determined that the complaint form and an agent authorization form were appropriately filed. It was noted that the name of the “assessed person” was legally changed from Them Property Management Ltd. (as shown on the assessment notice) to TH Property Inc. (effective 2012/01/27). Both the Complainant and Respondent disclosure documents were filed on their respective due dates.

[2] There were no procedural or jurisdictional matters to be decided.

**Property Description:**

[3] The property that is the subject of this assessment complaint is the Ramsay Design Centre, originally built as a warehouse in 1926 but currently occupied as offices. Total building area is 52,298 square feet. The building occupies a 1.58 acre commercial site on the east side of 11 Street SE. The Canadian Pacific railway line is along the east side of the property.

[4] The 2014 assessment is prepared using an income approach. It is a “C” class suburban office. Typical rents are \$13.00 per square foot for office space and \$10.00 per square foot for some recreational space (2,855 square feet). After deductions for vacancy (9.0 percent), operating costs on vacant space (\$13.50 per square foot) and non-recoverable expenses (1.00 percent), the net income of \$541,240 is capitalized at a 7.0 percent rate to yield a value of \$7,732,000.

**Issues:**

[5] The Assessment Review Board Complaint form was filed on March 3, 2014 by AEC Property Tax Solutions on behalf of TH Property Inc., the “assessed person.” Section 4 – Complaint Information had check marks in the boxes for #3 “Assessment amount” and #6 “the type of property.”

[6] In Section 5 – Reason(s) for Complaint, the Complainant stated numerous grounds for

the complaint.

[7] At the hearing, the Complainant pursued the following issues:

1) Capitalization Rate

- i. Should the capitalization rate be changed from 7.00 percent to 8.00 percent to reflect the age and condition of the building?

2) Equity

- i. Do the assessments of other, similar properties indicate a lower assessment for the subject?

**Complainant's Requested Value: \$6,760,000**

**Board's Decision:**

[8] The assessment is confirmed at \$7,730,000.

**Legislative Authority, Requirements and Considerations:**

[9] The CARB is established pursuant to Part 11 (Assessment Review Boards), Division 1 (Establishment and Function of Assessment Review Boards) of the Act. CARB decisions are rendered pursuant to Division 2 (Decisions of Assessment Review Boards) of the Act.

[10] Actions of the CARB involve reference to the Interpretation Act and the Act as well as the regulations established under the Act. When legislative interpretation is made by the CARB, references and explanations will be provided in the relevant areas of the board order.

[11] The Matters Relating to Assessment Complaints Regulation (MRAC) imposes certain requirements on the parties to an assessment complaint.

*Part 1 Matters before Assessment Review Board*

*Documents to be filed by complainant*

*2(1) If a complaint is to be heard by an assessment review board, the complainant must*

- (a) Complete and file with the clerk a complaint in the form set out in Schedule 1, and . . .*

*(2) If a complainant does not comply with subsection (1),*

- (a) the complaint is invalid, and*  
*(b) the assessment review board must dismiss the complaint.*

*Division 2 Hearing before Composite Assessment Review Board*

*8(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.*

*(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:*

- (a) the complainant must, at least 42 days before the hearing date,*

*(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to*

respond to or rebut the evidence at the hearing, and . . .

(b) the respondent must, at least 14 days before the hearing date,

(i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and . . .

(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

(3) A composite assessment review board must not hear any evidence from a complainant relating to information that was requested by the assessor under section 294 or 295 of the Act but was not provided to the assessor.

(4) A composite assessment review board must not hear any evidence from a municipality relating to information that was requested by a complainant under section 299 or 300 of the Act but was not provided to the complainant.

#### Part 6 General Matters

51 An agent may not file a complaint for an assessed person or taxpayer at a hearing unless the assessed person or taxpayer has prepared and filed with the clerk or administrator an assessment complaints agent authorization form set out in Schedule 4.

## **Position of the Parties**

### **Complainant's Position:**

[12] The Complainant's disclosure of evidence, filed June 23, 2014 and marked by the CARB as Exhibit C1 was filed with the CARB administration and the Respondent on the prescribed filing date. There was no rebuttal to the Respondent's evidence.

[13] The subject building is an old warehouse that was converted to office uses. The property backs onto the Canadian Pacific Railway main line. The proximity to the railway impedes efficient traffic movement in and around the property.

[14] This unique heritage property does not function and perform as a typical office building. Noted differences (some of which are shown in photographs in Exhibit C1) are:

- 1) Concrete floors
- 2) Exposed red brick walls
- 3) A maze of corridors
- 4) Low ceiling height stairwell
- 5) Circa 1926 freight elevator only
- 6) Dated bathrooms and kitchens
- 7) Inefficient heating and air conditioning systems
- 8) Lack of windows/dim lighting

## 9) Dated interior finishing

[15] Typically, this building attracts a certain clientele which can be characterized as coming from the creative classes (Advertising, publishing, photography, architecture, interior decorating and web design). These types of tenants do not have strong financial covenants.

[16] None of the property sales used by the Respondent in determining the capitalization rate appear to suffer from any of the characteristics that impair the subject. None of the buildings are as old as the subject. Their locations are superior. There are variances in quality classes. The conclusion is that the 7.0 percent capitalization rate would be more applicable to "B" class offices. The subject fits better into the "C" or even "D" quality class. In 2010, the CARB recognized the property quality and deficiencies and increased the capitalization rate by 1.0 percent and that should be done this year as well.

[17] Two equity comparables are 1439 – 17 Avenue SE and 916 – 42 Avenue SE. These are old warehouses that have been converted to mainly offices. They have lower assessments (\$78.42 and \$130.00 per square foot, respectively) than the subject (\$147.81 per square foot).

**Respondent's Position:**

[18] The Respondent's disclosure of evidence, filed on July 21, 2014 and marked by the CARB as Exhibit R1 was filed with the CARB administration and the Complainant on the prescribed filing date.

[19] The Respondent argued that the type of office accommodation available in the subject building is "quite in vogue" and a similar property across the railway, known as "Localmotive Crossing" is successful in marketing similar office space.

[20] The Respondent has undertaken a capitalization rate study that analyses nine suburban office property sales. The 7.0 percent capitalization rate that is applicable to "B", "C" and "D" quality properties is supported by the sales. The Complainant requests a 1.0 percent increase on the capitalization rate but has undertaken no study of its own to support the request.

[21] The equity comparables put forward by the Complainant cannot be compared to the subject. One of them is still assessed as a warehouse property and not an office. The other assessment contains an error and it will be re-assessed as either a "B" or "A-" quality office.

[22] Two properties that are similar to the subject are assessed similarly. 1008 – 14 Street SE comprises a 27,369 square foot "C" quality office that is assessed at \$149.80 per square foot of building area. 339 – 50 Avenue SE is a "C" quality office development with total building area of 64,568 square feet. It is assessed at \$149.01 per square foot.

**Board's Reasons for Decision:**

[23] The Complainant's argument on capitalization rates related partially to the subject property and partially to the "C" quality class of suburban offices. Statements were made and some photographs were provided but there was no documented evidence to show that the "C" quality office capitalization rate was incorrect or that the subject does not fit into that quality class. The Respondent provided evidence of comparability to other similar property.

[24] The Respondent's capitalization rate study included on "C" quality suburban office sale (2011). The capitalization rate from that sale was 6.71 percent. The Complainant did not refute that sale.

[25] The Complainant did not challenge the typical rent rates applied to the subject or any of the other input factors. In summary, the Complainant mentioned that some leases in the subject were “effectively gross leases” and that operating costs appear to be low because there is no outside management expense booked. Neither of these were discussed during the evidence presentation and neither of them has any support in the evidence. The Complainant also stated in summary that the office rent rate could have been challenged but it was not. An ARFI response might have provided data that would support these observations but none was provided.

[26] The CARB sees no assessment comparability between the subject and the two properties offered as equity comparables by the Complainant. Neither is a “C” quality office property. One is assessed as a warehouse and not an office. The Respondent provided two “C” quality office equity comparables that support the assessed rate of the subject.

[27] A capitalization rate survey report published by Colliers International was filed by the Complainant but it was of no assistance in determining the correct capitalization rate for “C” quality suburban office properties.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF August 2014.

W. Kipp  
W. Kipp  
Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
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**

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	OFFICE	LOW RISE	INCOME APPROACH	CAPITALIZATION RATE