



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:

***BCIMC Realty Corporation (as represented by Avison Young Property Tax Services),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
J. Kerrison, BOARD MEMBER
J. Rankin, 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:

ROLL NUMBER:	009022294
LOCATION ADDRESS:	928 – 72 AV NE
FILE NUMBER:	76498
ASSESSMENT:	\$18,930,000 (taxable portion)

This complaint was heard on 21st day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *B. Peacock – Avison Young Property Tax Services*

Appeared on behalf of the Respondent:

- *G. Foty – Assessor, City of Calgary*

Regarding Brevity:

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None

Property Description:

[3] The subject is a single-building multi-bay (nine units) industrial warehouse situated in the "Deerfoot Two" industrial area located north of 64 AV NE between the mid-westerly side of Calgary International Airport and Deerfoot Trail. The 9.65 acre (Ac) site contains a 1998 building with a total assessable area of 171,025 square feet (SF). It also has 14,170 SF of exempt space. The subject has 16% finish; 40.53% site coverage; and is assessed using the Direct Comparison Approach at \$120.69 per SF for all spaces. The assessed value for the taxable (assessable) space is \$18,931,607 whereas the exempt space is valued at \$1,710,247 for a total assessment of \$20,641,854. However only the assessable value of \$18,930,000 (rounded) is at issue before this Board.

Issues:

[4] What is the market value of the subject when assessed using the Income Approach to Value, instead of the Direct Comparison Approach, in order to account for an alleged "chronic vacancy" issue in the subject?

Complainant's Requested Value

[5] The Complainant requested that the taxable assessment be reduced to \$14,250,000 based on his alternate Income Approach to Value calculations instead of the Market Comparison Approach used by the Respondent.

Board's Decision:

[6] The Board confirmed the assessment at \$18,930,000.

Legislative Authority, Requirements and Considerations:

[7] The Complainant referenced Court decision "*Mountain View (County) v. Alberta (Municipal Government Board) [2000] A.J. No. 1042, 2000 ABQB 594, Action No. 9901-17438*"

Positions of the Parties**Complainant's Position:**

[8] The Complainant argued that the subject suffers from a chronic vacancy issue that lowers the subject's market value. He suggested that this issue is not reflected in the subject's assessed value when using the Direct Comparison Approach under Mass Appraisal. He argued that one must use the Income Approach to Value methodology to account for this issue in the marketplace. The Complainant argued that the actual vacancy in the subject for the past year is 25%. He also confirmed under questions from the Respondent that he had not visited the subject recently, nor had he inspected his property comparable at 930 – 64 AV NE. The Complainant also noted that it was unclear as to the precise reasons for the level of vacancy in the subject.

[9] The Complainant nevertheless provided a chart containing three time-adjusted market sales of industrial warehouse properties which he considered similar to the subject, despite the 171,025 SF size of the subject. The three property comparables are all located in NE Calgary and transacted in 2010, 2011, and 2012. The improvements totalled 128,693 SF; 143,154 SF; and 99,000 SF and were constructed in 1997; 1999; and 2000. The Complainant argued that the time-adjusted values of the three market sales calculated to be \$104 per SF which is less than the subject's assessed \$120.69 per SF.

[10] The Complainant argued that to calculate the assessed value of the subject using the Income Approach to Value it was necessary to use the actual rents in the subject to identify an average and median rent input value. He considered that based on five internal leases, the median \$8.25 per SF was appropriate. He provided the rent rolls for the site. The Complainant also calculated that between 7/31/2012 and 6/30/2013 the vacancy rate in the subject was 25.89%. However, he opted to apply only 15% in his Income calculations because it was the "lowest point" over the past two years.

[11] In order to calculate a capitalization rate (cap rate) for his Income calculation, the Complainant provided five market sales, all but one from NE Calgary. He noted the five sales transacted between 2010 and 2012 and displayed improvement sizes ranging from 27,737 SF to 148,372 SF. The five buildings were constructed from 1992 to 2006. He provided the RealNet information sheets, and, City Assessment Summary reports for each of his sales. The Complainant calculated that the median cap rate from these five sales was 6.94%, and therefore he opted to use 7% in his Income calculation.

[12] The Complainant calculated that by using a 7% cap rate; a 15% vacancy rate; and an \$8.25 per SF rent, the indicated value of the entire 171,025 SF of the subject should be \$15,537,010. He argued that when one removes the 14,170 SF of exempt space valued at \$1,287,294, the assessment should be \$14,249,716, or \$14,250,000 (rounded). The Complainant argued that his methodology is supported by Court decision *"Mountain View (County) v. Alberta (Municipal Government Board) [2000] A.J. No. 1042, 2000 ABQB 594, Action No. 9901-17438"*.

Respondent's Position:

[13] The Respondent argued that there is no valid reason to use the Income Approach to value as argued by the Complainant because there are a multitude of recent comparative market sales available to value the subject under the Direct Comparison Approach. He also argued that one year of vacancy in a structure is not an indication of "chronic vacancy" as advocated by the Complainant. He clarified that he inspected the subject on July 4, 2014.

[14] The Respondent also argued that the Complainant has not completed, or presented any evidence that the input values for rent and vacancy used in the Complainant's valuation calculations, are the result of any broader market studies as required under Mass Appraisal. The Respondent argued therefore that in his valuation calculation using the Income approach, the Complainant has resorted to using "actual" rent and vacancy values in the subject, and mixing that data with what he purports to be a "typical" cap rate value gleaned from five questionable broader market sales. He argued that this methodology is not an accepted or professionally sanctioned valuation procedure.

[15] The Respondent argued that there is no broader market support for either the 7% cap rate or the 15% vacancy rate used in the Complainant's calculations. He provided copies of independent market analyses by Cushman Wakefield; CBRE; and Avison Young demonstrating that 6% to 6.5% and not 7% is a more correct cap rate value. He also referenced the same documents to demonstrate that a typical vacancy rate for the subject and comparable buildings is 4.8% and not 15% as advocated by the Complainant.

[16] The Respondent argued that a market sale at 930 – 28 ST NE used by the Complainant to calculate the latter's cap rate is a portfolio sale between related parties in a REIT and is therefore an invalid sale for assessment purposes. He provided the RealNet information sheets for the transaction to confirm this point. Therefore, he argued, the Complainant should not have relied on this sale as an indicator of value, nor should the Board. The Respondent noted that both he and the Complainant had relied on a market sale at 930 – 64 AV NE, and when this sale is analyzed, the indicated cap rate for this sale is 6.03% which does not support the Complainant's requested 7%.

[17] The Respondent argued that in comparing his market sale comparables, the Complainant has not adjusted for the differences in land and/or building size; levels of finish; excess land value; site coverage; etc., and therefore his property comparables are not comparable to either each other, or to the subject. On the contrary, the Respondent argued, the City's model automatically calculates these differences and many others, such that a more accurate comparison of any list of properties is achieved. He suggested that this is a logical approach to valuation, unlike the Complainant's. The Respondent argued that the Complainant has misinterpreted Court decision "*Mountain View (County) v. Alberta (Municipal Government Board)* [2000] A.J. No. 1042, 2000 ABQB 594, Action No. 9901-17438" and it does not apply to the facts of this appeal.

Board's Reasons for Decision:

[18] The Board finds that the Complainant's calculations of alternate assessed value using the Income Approach to Value, employs an incorrect methodology that mixes "actual" rent and vacancy factors from the subject's rent roll, with a decidedly "typical" cap rate gleaned from analysis of broader market sales. The Board therefore declines to accept the Complainant's requested alternate assessment valuation based on this incorrect methodology.

[19] The Board finds that notwithstanding [18] above, the Complainant's cap rate of 7% is calculated from market sales of properties which are dissimilar to the subject in physical characteristics, and to which adjustments have not been made to render them more comparable to the subject.

[20] The Board finds that pursuant to [19] above, the market sale at 903 – 28 ST NE relied on by the Complainant to calculate his 7% cap rate, is a portfolio sale between related parties and is therefore invalid for assessment purposes.

[21] The Board finds that the sale at 930 – 64 AV NE used by both parties, when correctly analyzed, demonstrates a cap rate of 6.03% which is significantly less than the 7% requested by the Complainant. Therefore the Complainant's reliance on this sale to calculate a 7% cap rate is not well founded.

[22] The Board finds that notwithstanding the foregoing, the rent; vacancy; and cap rates used by the Complainant in his alternate assessment calculation, are in excess of typical rates for the Calgary market as identified in independent Market Reports by Cushman Wakefield; Avison Young; and CBRE Richard Ellis as supplied by, but not entirely relied on, the Respondent.

[23] The Board finds that the Complainant provided insufficient evidence to demonstrate that the subject is more correctly assessed using an Income Approach to Value methodology instead of the Direct Comparison Approach.

[24] The Board finds that the evidence in this hearing demonstrates that one year of vacancy in the subject does not constitute a "chronic vacancy" situation as alleged by the Complainant.

[25] The Board finds it concurs with the Respondent that Court decision "*Mountain View (County) v. Alberta (Municipal Government Board)* [2000] A.J. No. 1042, 2000 ABQB 594, Action No. 9901-17438" does not apply in this appeal.

[26] The Board finds that the subject is assessed in a correct, fair, and equitable manner, contrary to the assertions of the Complainant.

DATED AT THE CITY OF CALGARY THIS 14th DAY OF August 2014


K. D. Kelly
Presiding Officer

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

NO.	ITEM
1. C-1	Complainant Disclosure
2. R-1	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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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	commercial	Suburban office	market value	Assessment parameters