



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:

Scotia Realty Limited / Services Immobiliers Scotia Limitee
(as represented by Avison Young),
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

J. Fleming, BOARD CHAIR
D. Morice BOARD MEMBER
B. Jerchel 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: 080031701

LOCATION ADDRESS: 1401 17th Ave. SW

FILE NUMBER: 76896

ASSESSMENT: \$7,330,000

This complaint was heard on 11th day of August, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6..

Appeared on behalf of the Complainant:

- *C. Hartley, Agent, Avison Young Property Tax Services*

Appeared on behalf of the Respondent:

- *H. Yau, Assessor, City of Calgary*

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

- [1] There were no objections to the composition of the panel, and no Board member declared a conflict.
- [2] The Complainant advised that they had not received a copy of the Respondent's disclosure, and indicated they had searched diligently throughout their offices.
- [3] The Respondent reviewed their documents and advised that they had an Email showing the disclosure had been sent to the Complainant.
- [4] The Complainant advised he was prepared to proceed.
- [5] There were no other preliminary matters.

Property Description:

- [6] The property is a purpose built Bank building (housing a Bank of Nova Scotia Bank) built in 1974. It is a class B building with 8,175 square feet (sf) of main floor space, 3,080 sf of mezzanine space and 8,000 sf of basement storage. The site is 20,480 sf. The property is designated Commercial Corridor 1 (C-Cor 1) and it is assessed on its income.

Issues:

- [7] The Complaint form outlined a number of issues, but in the hearing, the Complainant cited the following issues.

- i. What is the best method for valuing the Subject?

In order to determine this matter it is necessary to evaluate the evidence for the main floor Bank rental rate, to determine if the subject should be classified similarly to a suburban Bank premises for rental rate and capitalization rate.

Complainant's Requested Value: \$6,120,000 (based on Land Value)

Board's Decision:

- [8] The Complaint is allowed and the assessment is reduced to \$6,120,000.

Legislative Authority, Requirements and Considerations:

- [9] The Board derives its authority from the Municipal Government Act RSA 2000 Chapter M-26 (the Act).

- [10] More specifically, the Act reads:

s 1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) 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,

(b) the procedures set out in the regulations, and

(c) the assessments of similar property or businesses in the same municipality.

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

- [11] The Complainant first noted that the property, because of its age, was different than current bank designs in that it contained mezzanine offices, a feature not seen in neighbouring "newer" banks. The existence of the mezzanine space distorted the economic analysis of the subject compared to its newer (and neighbouring) competitors.

- [12] Of greater interest, the Complainant said, was the fact that the Respondent had based its typical rental rates for Beltline Banks on three A class buildings which were a minimum of 20 years newer than the subject. The Complainant said there should be a distinction in the rental rates for A, B and C class buildings.

- [13] The Complainant asserted that the newer and higher class buildings were not comparable to the 1974 built subject. The "best" comparable was the lease for the ATB in Marda Loop at 2140 34th Ave. SW. Even though it was 20 years newer than the subject it was a B class building, located in an inner city retail environment which made it very similar to the subject (Ex. C1, pg. 4).

- [14] Using the rental rate and cap rate attributes for the ATB – Marda Loop, reduced the main floor rental rate from \$45.00 to \$35.00 per sf, and increased the cap rate from 5.5% to 6.25%. In the calculations, all other inputs remained unchanged from the City's income

valuation of the subject.

[15] The value produced from this analysis was \$5,263,956 (Ex. C1, pg. 18) which the Complainant acknowledged was less than the land value for the subject. The Complainant agreed with the City land rate of \$299.25 per sf, which produced a value of \$6,120,000.

[16] Because the Land Value was greater than the Complainant's capitalized income value, the land value amount (\$6,120,000) should be the basis for the assessment.

[17] The land value formed the basis for a number of other Bank properties in the Beltline.

[18] In disputing the City's approach of grouping A,B and C quality properties, the Complainant acknowledged that there were not any more Beltline Bank leases to consider, but thought that some difference should be provided to recognize the quality differences.

[19] To demonstrate the problem, the Complainant pointed out that the TD Bank had vacated a C class space (1029 17th Ave. SW) and moved to a new A Class development down the street, yet the assessed rent was the same as the subject and it was noted that the assessed rent would have been the same had they remained in their "old" C class space.

[20] The Complainant said this did not make sense.

[21] Further, the Complainant noted that the City's own evidence (Ex. C1, pgs. 36 – 102) showed that most if not all other tenancy types in the Beltline including Office and Retail, had different assessed rental rates for different quality spaces.

[22] The brief also included evidence from the City on Citywide (excl. Beltline) assessment inputs (Ex. C1, pg. 132 to 193). This document showed stratification based on quality in almost every category of tenancy analyzed. In particular, it noted that Citywide, Banks were similarly stratified and highlighted the B Quality Bank analysis which resulted in the \$35.00 per sf typical rate (Ex C1, pg. 167).

[23] In summary, the Complainant said that there should be a stratification based on quality for Bank leases in the Beltline because it is common Citywide for all types of tenancies as demonstrated by the City's own evidence, and it make sense. In this case, their analysis had shown that the rental rate and cap rate for a similar quality property located just west and south of the subject was an appropriate comparable.

[24] The Complainant further noted that because the value produced from the revised inputs was less than the subject property's land value, it asked that the value be reduced to the land value of \$6,120,000.

Respondent's Position:

[25] The Respondent advised that the Downtown/Beltline had always exhibited different characteristics than the suburban market.

[26] The Respondent had reviewed the entire sample of Beltline bank leases, and while it always hopes for more evidence with which to establish value, the Respondent can only work with what exists in the marketplace.

[27] In this case there were three valid leases from A quality premises, and the Respondent had no evidence that the rental rates differed according to the quality of the premise. The Complainant had provided no evidence that showed there was a distinction based on the quality of the premise.

[28] The Respondent made the point that the Complainant was asking the Board to accept the inference that because there was a difference in rates based on quality in other parts of the City, there should be similar differences in the Beltline. If the Board were to agree with the inference, the Complainant was suggesting that the rent rate and capitalization rate should be taken from a suburban bank.

[29] The Respondent explained that there was no evidence from either party which would support a stratification of Beltline Bank rental rates based on quality. Therefore, there was no basis to use the Marda Loop ATB as a comparable.

[30] The Respondent also noted that the capitalization rate for suburban banks was 6.5%.

Board's Reasons for Decision:

[31] The CARB considered the evidence.

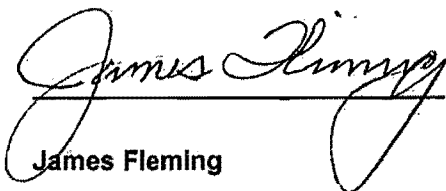
[32] The Complainant asked the CARB to agree with the inference that because other areas of the City stratify leases for tenancies based on quality, then it is appropriate and required that the Beltline should be stratified for Banks according to the quality of the premise.

[33] The CARB noted that virtually all other types of commercial tenancies in the Beltline had typical rents stratified based on quality (Ex. C1, pgs. 36-68). While the CARB understands that there may have been no other current leases for the City to select from, the concept of stratification of rents based on quality is well established in the Beltline Market (as well as Citywide for Banks), and consequently the CARB is prepared to accept that concept for Beltline Banks.

[34] The only alternate rent put forward was the ATB Marda Loop rate which would result in a value less than the land value.

[35] As a result, the CARB concludes that the best evidence of value is the land value only rate which results in a reduction in the assessment to \$6,120,000 as noted above.

DATED AT THE CITY OF CALGARY THIS 3rd DAY OF October 2014.

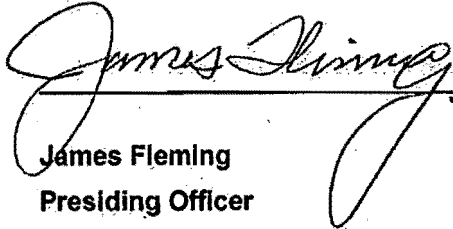


James Fleming
Presiding Officer

NOTE:

This revision substitutes several erroneous paragraphs of the decision of the Calgary Assessment Review Board, issued on September 15, 2014. Paragraphs [31] to [35] of this revision state the planned and intended determination of the Board.

DATED AT THE CITY OF CALGARY THIS 3rd DAY OF October 2014.



James Fleming
Presiding Officer

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

NO.	ITEM
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 Official Use:

<i>Subject</i>	<i>Type</i>	<i>Issue</i>	<i>Detail</i>	<i>Sub-Detail</i>
CARB	Retail	Stand Alone	Income Approach	Net Lease Rate Capitalization Rate