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**Cold Lake Composite Assessment Review Board**

**Citation: MNP LLP for 718721 Alberta Ltd. v The City of Cold Lake**

**Assessment Roll Number: 4000030008**  
**Municipal Address: 6203 – 51 Street**  
**Assessment Year: 2019**  
**Assessment Type: Annual New**  
**Assessment Amount: \$5,517,400**

Between:

**MNP LLP.**

Complainant

And

**The City of Cold Lake, Assessment and Taxation Department**

Respondent

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**DECISION OF**

**Jasbeer Singh, Presiding Officer**

**Bob Buckle, Public Member**

**, Public Member**

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**Procedural and Preliminary Matters**

[1] Upon questioning by the Presiding Officer, the parties indicated they did not object to the Board's composition and no preliminary issues were brought before the Board. In addition, the Board members stated they had no bias with respect to this file.

[2] The Presiding Officer informed the parties at the hearing that the panel for the day's hearing was comprised of two members which, according to *Section 458(2) of the Municipal Government Act RSA 2000*, meets the quorum requirements.

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## **Background**

[3] The subject property is comprised of two stand-alone retail buildings – known as ‘Shoppers Drug Mart’ and ‘Sobey’s Liquor Store’. Located at 6203 – 51 Street on a 3.11 acre, ‘C3 – Shopping Centre District’ zoned parcel of land; the subject includes two buildings with main floor areas of 16,832 square foot (sf) and 4,149 sf.

[4] Built in 2008, the subject property is comprised of the newest constructed buildings in the Tri-City Mall; and has been assessed on income approach. The 2019 assessment has been set at \$5,517,400.

## **Issues**

[5] Several issues had been listed in the Complainant’s original disclosure documents. However, at the hearing, the Complainant clarified that the only outstanding issue before the Board was whether the subject assessment is equitable when compared with assessments or the selling prices of similar properties in the market area; and more specifically:

- a. Are the rental rates used for the subject assessment equitable when compared with the rental rates used for the assessment of similar properties in the municipality?

## **Summary of the Complainant’s Position**

[6] The Complainant stated that the subject assessment is based on a rental rate of \$25.50 per sf for the larger (16,832 sf) building, and \$30.00 per sf for the smaller (4,149 sf) building.

[7] The Complainant stated that the equitable assessment rates should be \$13.50 per sf for the larger building and \$20.00 per sf for the smaller building; for a total current year assessment of \$3,050,200.

[8] The Complainant took the position that the subject assessment does not reflect the fee simple estate in the property and does not reflect typical market conditions for the subject property.

[9] The Complainant alleged that the assessor has also failed to take into consideration, assessments of similar properties in the same municipality; resulting in an inequitable assessment.

[10] The Complainant argued that the assessor had valued the property using its leased fee estate.

- a. The assessment rates and the actual lease rates are the same.

- b. The subject leases were signed in 2008 and 2011.
- c. It is extremely unlikely that these lease rates represent the current market rents.

[11] The Complainant stated that the above concerns were confirmed when reviewing the assessment in respect of roll # 4000030002 (located at 6803 – 51 Street). The assessment rates of \$20.00 per sf and \$13.50 per sf are the same as the actual lease rates.

[12] The Complainant argued that the subject has been assessed using significantly higher rates than the rates applied for a comparable property located at 6803 – 51 Street.

[13] In response to questions, the Complainant confirmed the following.

- a. Staples lease, which was cited for rental rate equity, was also signed in 2008, the same year as the Shoppers' lease.
- b. Marks' Work Warehouse lease, which was also cited for rental rate equity, was signed in 2014.
- c. The Complainant's comparable property, relied upon for equity, does not front on the highway.
- d. In the Complainant's opinion, there should be no difference in assessment rates applied to strip type multi-tenant properties and free-standing buildings.

### **Summary of the Respondent's Position**

[14] The Respondent stated that in the absence of large number of comparables, the assessment is based on the actual rental rates and these rates are deemed to be reflective of the fair market rents for the subject spaces.

[15] The Respondent referenced the comments in the Complainant's appraisal document; which support the use of contract rates for assessments in smaller communities.

[16] The Respondent provided a table of nine leases in multi-tenant building and four leases in respect of stand-alone buildings; all from the Tri-City Mall area, and argued that:

- a. The average rental rates of \$28.11 per sf, for stand-alone buildings, were nearly double that of the \$15.45 in respect of multi-tenant building.
- b. Significant difference in actual lease rates, reflects how the market views the different types of properties in the same commercial complex.



- c. The main tenant in the comparable site occupies a space that is 3,000 sf larger than the subject (Shopper's) space; and the larger spaces rent at lower rates.

[17] The Respondent stated that an appraisal of the three properties, all owned by the Complainant, indicated a market value of \$16,120,000; whereas the same three properties' total assessment is \$12,129,000. In the Respondent's opinion, the information provided to the City, by the owner of the property, does not support the contention that the assessment is excessive when compared to the market value of the property, determined through their own appraisal.

[18] The Respondent provided an aerial photograph of the location of the subject and the Complainant's comparable properties; and highlighted the superior, highway facing, corner location of the subject properties.

[19] In conclusion, the Respondent stated that the subject, stand-alone properties, are superior in terms of location, building type and size; and therefore, these command higher rents and have been assessed as such. The Respondent requested the Board to confirm the current year assessment of \$5,517,400.

### **Complainant's Rebuttal**

[20] The Complainant argued that the four stand-alone spaces included in the Respondent's table of leases should not be relied upon because:

- a. The first lease, comprised of 4,512 sf main floor space is either a bank or a restaurant which, both, lease at higher rates than typical retail spaces; and hence not comparable to the multi-tenant leases quoted by the assessor.
- b. Most municipalities assess bank and restaurant spaces at higher lease rates than the rates applied to the typical retail spaces.

[21] The Complainant provided copies of assessment information in respect of several properties located in the City of Edmonton and stated that stand-alone and multi-tenant spaces are assessed with the same lease rate. The Complainant argued that the City of Cold Lake, ought to, assess stand-alone buildings at the same lease rates as applicable to retail spaces in multi-tenant buildings.

[22] The Complainant stated that the appraisal was done on the leased fee interest in the subject property whereas the assessment is on fee simple estate. The Complainant argued that the issue before the Board is whether the subject assessment is equitable and hence, the subject's appraised market value is irrelevant.

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**Decision**

[23] The Board confirms the assessment set at \$5,517,400.

**Reasons for the Decision**

[24] The Board accepts the Respondent's obligation to establish assessment values that are reflective of the market values on the valuation date of July 01, 2018.

[25] The Board accepts the Respondent's position, also echoed in the Complainant's appraisal comments, that, in smaller communities, where enough market leasing activity data is not available; the assessor should use the contract lease rates for assessment.

[26] The Board accepts the Respondent's rental rate analysis that includes leasing data from multi-tenant buildings and stand-alone buildings in the same commercial complex in the municipality, which shows that the stand-alone buildings command higher leasing rates than similar size spaces in multi-tenant buildings.

[27] The Board is persuaded by the Respondent's evidence which shows that the subject property (Shoppers' Drug Mart) and the Complainant's comparable (Staples); were both built in 2008; have similar lease start and renewal dates; and were leased at substantially different rates. There being no other evidence to the contrary; the Board finds the lease rate differential to be attributable to the quality, the location and the type of properties.

[28] The Board finds that the different lease rates used for the assessment of the subject and the comparable properties; reflect the market valuation, over which the assessor has no control or influence. Since the assessments are based on actual contract rates, which are market driven; the Board finds no grounds to support the contention that the assessments are not equitable.

[29] The Board notes that the Complainant's contention for lower lease rates is based on three leases from one multi-tenant building in the commercial complex known as Tri-City Mall. The Complainant's argument that free-standing retail properties should be assessed at the same rates as multi-tenant or strip mall properties; is based on the assessment practices of a different municipality and the properties are located outside the municipal jurisdiction of the City of Cold Lake. It may be an anomaly, but the evidence shows that in the subject municipality, stand-alone buildings are leased at higher rents than similar sized spaces in multi-tenant buildings.

[30] The Board notes the Complainant's evidence, presented in rebuttal, that a different municipality assesses the two types of retail properties, in a different manner than the City of Cold Lake. However, the Board was not provided with any evidence or argument as to why a different municipality's assessment practices should be applicable to the subject municipal jurisdiction.

[31] Since the subject assessment is based on contract rates and the renewal date for the larger space was shown to be 2018, there is no reason to conclude that the contract lease rates are not based on market realities and are not correctly reflected in the subject assessment.

[32] In view of the above, the Board confirms the current year assessment of \$5,517,400.

Heard September 05, 2019.

Dated this 27<sup>th</sup> day of September 2019, at the City of Cold Lake, Alberta.



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Jasbeer Singh, Presiding Officer

**Appearances:**

Ryan MacBeath, Technician  
(for MNP LLP)

*For the Complainant*

Troy Birtles, Assessment/Taxation, City of Cold Lake

Josh McMillan, Assessment/Taxation, City of Cold Lake

*For the Respondent*

*This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.*



## Appendix

### Legislation

#### **The *Municipal Government Act*, RSA 2000, c M-26, 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.

### **Exhibits**

C-1 Complainant’s Disclosure

R-1 Respondent’s Disclosure

C-2 Complainant’s Rebuttal