

**CITY OF CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

**BETWEEN:**

**BEREZAN MANAGEMENT LTD., Complainant**

**and**

**THE CITY OF CALGARY, Respondent**

**BEFORE:**

**J. KRYSA, Presiding Officer  
A. BLAKE, Member**

A hearing was convened on October 13, 2010 in Boardroom 11, at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>067078899</b>
<b>LOCATION ADDRESS:</b>	<b>735 – 8<sup>th</sup> Avenue SW</b>
<b>HEARING NUMBER:</b>	<b>56993</b>
<b>ASSESSMENT: (Excl. Exemption)</b>	<b>\$104,730,000</b>

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

The subject property is a 23,706 square foot (sq.ft.) parcel of land, improved with a 296,751 sq.ft. high rise office building, constructed in 1980 and known as First Alberta Place. It is comprised of 284,861 sq.ft. of office space, 10,619 sq.ft. of retail space, 1,271 sq.ft. of storage space and 50 parking stalls, on a base plate of 13,581 sq.ft. The total assessment equates to a unit rate of \$352.92 per sq.ft.

**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

There were no procedural or jurisdictional matters raised by the parties during the course of the hearing. The parties were in agreement with the matter being heard and decided by a two member panel, and there was no objection to the composition of the Board.

**PART C: MATTERS / ISSUES**

The Complainant set out matter #3, an assessment amount, in section 4 of the complaint form.

At the hearing, the Complainant stated that the following issues were in dispute:

Issue 1: The assessment is inequitable in relation to the assessments of similar properties.

Issue 2: The assessment is incorrect as the market rent coefficient applied by the assessor exceeds the actual rental income of the subject property.

Issue 3: The location of the property has not been adequately considered in the preparation of the assessment.

The Board noted that the issues put forth by the Complainant at the hearing, appear not to have been specifically set out in section 5 of the complaint form; however, as the Respondent did not raise an objection, the Board heard the evidence of the Complainant, as presented.

**Issue 1**

The Complainant argued that the assessment of the subject property is inequitable in relation to the assessments of similar properties, and that the subject property is assessed at a higher unit rate than some superior properties, and some similar properties in superior locations.

In support of that argument, the Complainant submitted the assessments of four office buildings located within six blocks of the subject property. The assessed value of the four comparables range from \$289.00 to \$303.00 per sq.ft., in contrast to the subject property's total assessment of \$353.00 per sq.ft. [C1, p.2].

The Respondent argued that the subject property has been assessed equitably in relation to the assessments of similar properties due to the mass appraisal methodology employed in the preparation of the assessments. In support of that argument, the Respondent submitted a summary listing of five class A- office buildings in the same market area as the subject (DT2), to illustrate that the \$28.00 market rent coefficient assigned to the office area in the subject property, was also assigned to all other class A- office buildings [R1, p.45].

In response to the Complainant's equity evidence, the Respondent argued that the Complainant's comparables were dissimilar to the subject, as three of the four properties were significantly older, lower quality (class B) offices.

**Decision - Issue 1**

The Board finds that the assessment of the subject property is equitable in relation to the assessments of similar properties.

The Board does not find the Complainant's comparable properties reveal an inequity, as the properties are significantly dissimilar from the subject in terms of building class and year of construction; as such it is expected that the unit rate of the comparable assessments would be lower than that of the subject property.

The Board is persuaded by the Respondent's evidence that the subject is equitably assessed; the \$28.00 market rate is being applied consistently in a mass appraisal methodology to the subject property, as well as to the other class A- office buildings located in market area DT2.

**Issue 2**

The Complainant argued that the assessment is incorrect, as the market rent estimated by the assessor, exceeds the actual rental income of the subject property. In support of that argument, the Complainant submitted three rent roll reports from the subject property with effective dates of July 1, 2009, January 1, 2010 and May 1, 2010, which exhibited the following actual levels of income, in contrast to the income estimated in the preparation of the assessment [C1, pp.7-20]:

	<b>01-Jul-09</b>	<b>01-Jan-10</b>	<b>01-May-10</b>	<b>Assessment</b>
Monthly Base Rent	\$511,414	\$348,302	\$342,732	
Monthly Other Income	<u>\$46,332</u>	<u>\$37,047</u>	<u>\$37,335</u>	
Monthly Total Income	\$557,746	\$385,349	\$380,067	
Annualized	<b>\$6,692,952</b>	<b>\$4,624,188</b>	<b>\$4,560,804</b>	<b>\$8,180,049</b>

The Complainant argued that the annualized levels of income, as evident above, would require further adjustment to reflect the cost of real estate commissions and tenant improvements, and that this actual level of income should be capitalized to establish an estimate of market value for assessment purposes.

The Respondent argued that the subject property is a typical class A- office building, and the assessment has been prepared correctly in accordance with the legislated requirements. In support of the \$28.00 per sq.ft. office rent coefficient, the Respondent provided a list of 5 office leases commencing between August 01, 2008 and April 1, 2009, exhibiting rent rates ranging from \$20.50 to \$38.80 per sq.ft, and a median rent rate of \$33.00, with 2 of the leases being within the subject property at \$33.00 and \$38.80 per sq.ft. [R1, p.38].

With respect to the actual vacancy rate, and its influence on the operating income of the subject, the Respondent submitted an Assessment Request For Information (ARFI) form and a rent roll report from the subject property with an effective date of April 01, 2009. The Respondent argued that although the subject exhibited a vacancy rate of 11.03% as of July 01, 2009, vacancy within the subject has not been a chronic, long term issue as the subject's stated vacancy rate was 0.84% as of April 01, 2009 [R1, pp. 30-35].

**Decision - Issue 2**

The Board finds that the assessment is correct, as the market rent estimated by the assessor is supported by lease rate evidence from the subject property and properties similar to the subject as of July 1, 2009, the valuation date for the current assessment.

The Board accepts that the subject property is a typical class A- office building, located within the DT2 market area of the municipality, and that there are no physical characteristics inherent in the subject property that would render it unable to compete with other similar properties, as agreed to by both parties.

As a result of the finding that the subject is a typical office structure that is similar to other properties, the Board referred to the statutory requirements found in the legislation.

*Matters Related to Assessment and Taxation Regulation, Alberta Regulation AR 220/2004*

2. An assessment of property based on market value
  - (a) must be prepared using mass appraisal,
  - (b) must be an estimate of the value of the fee simple estate in the property, and
  - (c) must reflect typical market conditions for properties similar to that property.
3. Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

The Board finds that market rent and market vacancy coefficients have been applied consistently in the preparation of the assessments of the DT2 office inventory, meeting the requirements of mass appraisal.

Although it is unclear why the rate of \$28.00 per sq.ft. was selected as the "typical" market rent, when none of the leases were signed at that rate and the median rent rate evident is \$33.00 per sq.ft., the Board finds that the typical market rent coefficient is supported by the Respondent's lease analysis.

With respect to the Complainant's evidence and argument of a deteriorating market, the Board noted that the only 2009 lease in evidence, was a lease within the subject property commencing in April 2009 at a rate of \$33.00 per sq.ft., which the Board finds is further supportive of the market rent coefficient used in the preparation of the assessment.

The Board accepts that the recent vacancy in the subject has negatively affected the operating income subsequent to the valuation date; however, the legislation requires the current assessment to be an estimate of value as of July 1, 2009. There is no evidence to suggest that the property experiences a chronic or long term vacancy problem; rather the Respondent's evidence of the April 2009 ARFI form and the April 2009 rent roll indicates that the subject property has had a minimal level of vacancy prior to recent lease expirations, which are not an atypical occurrence, but rather a normal course of real estate operations.

In conclusion, the Board finds that capitalizing the actual income of the subject property derived from the leases currently in place, as asserted by the Complainant, would establish the value of the leased fee estate in the property, and not the fee simple estate in the property, as required by the legislation set out above.

**Issue 3:**

The Complainant argued that the location of the subject property has not been adequately considered in the preparation of the assessment.

The Respondent argued that the subject property is not atypical with respect to location and indicated that it is adjacent to other similarly classed office buildings which are assessed with identical coefficients.

**Decision – Issue 3**

The Board finds that there was insufficient market evidence presented to conclude that the location of the subject property has not been adequately considered in the preparation of the assessment.

In the absence of evidence to the contrary, the Board accepts that the subject's DT2 location has been properly reflected by the Assessor's selection of coefficients, as indicated in the Respondent's evidence pertaining to market rent rates, vacancy rates, etc.

**PART D: FINAL DECISION**

The assessment is confirmed at \$ 104,730,000.

Dated at the City of Calgary in the Province of Alberta, this 18<sup>th</sup> day of November, 2010



J. Krysa  
Presiding Officer

**APPENDIX "A"****DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

<b>NO.</b>	<b>ITEM</b>
1.	Exhibit C1 Evidence Submission - Complainant
2.	Exhibit R1 Evidence Submission - Respondent

**APPENDIX "B"****ORAL REPRESENTATIONS**

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1. R. Berezan	Representative of the Complainant
2. A. Gravelle	Representative of the Complainant
3. W. Krysinski	Representative of the Respondent

*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.*