

**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-26.1, Section 460(4).

between:

Colliers International Realty Advisors, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

H. Kim, PRESIDING OFFICER

J. Joseph, MEMBER

D. Steele, 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 2010 Assessment Roll as follows:

ROLL NUMBER:	068052703
LOCATION ADDRESS:	400 5 Ave SW
HEARING NUMBER:	57421
ASSESSMENT:	\$38,120,000

This complaint was heard on the 3rd day of November, 2010 at the office of the Assessment Review Board located on the 3rd Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Property Description:

The subject complaint is of the Roslyn Building, a ten storey office building with a 13,889 SF floor plate and 122,901 SF of office space, 9,299 SF of main floor retail and 33 parking stalls on a 20,988 SF parcel of land. According to the City's records it was constructed in 1966; however the BOMA Building Guide lists it as constructed in 1958.

It is located in the DT1 district of downtown Calgary and is classified as a B building. It is assessed on the income approach based on \$26/SF for the retail and office areas with an 8% retail and office vacancy allowance, along with parking rates that are not under dispute. Operating costs and vacancy shortfall, also not under dispute, are applied and the resulting net operating income is capitalized at 8% to arrive at the assessment under complaint.

Issues:

The Complainant identified a number of issues on the Complaint form; however at the hearing the issues argued and considered by the Board were:

1. The rental rate for the offices should be decreased to \$24 from \$26
2. The vacancy rate should be increased to 15%.
3. The capitalization rate should be increased to 9%

Complainant's Requested Value:

\$9,530,000 revised to \$27,640,000 at the hearing.

Board's Decision in Respect of Each Matter or Issue:

Issue 1: Office rental rate

Complainant's position:

While there was some dispute over the actual year of construction, it is clear that the subject is one of the oldest buildings in DT1. It has been maintained over the years but has not had substantial renovation. The December 2009 rent roll was provided to support the position that the subject performs poorly compared to other Class B buildings in the downtown core. The only recent leases commenced in July 2008 (\$34/SF), November 2009 (\$20/SF) and December 2009 (\$10/SF) and suggest a market rate of \$20/SF. The other leases are older, and the weighted mean of the rents in the subject is \$13.84/SF.

The Complainant presented a number of leases of B class buildings in DT2 of which four commenced in the second quarter (Q2) of 2009 (p45 C2). The rates ranged from \$16.37 to \$38/SF. There were also 8 leases in DT1 presented of which 2 commenced in Q2 2009 at \$20 and \$25/SF with the balance commencing later. The time adjustment analysis presented in a hearing heard the previous day was asked to be considered for this hearing as well.

The Complainant disputed some of the Respondent's lease comparables, stating one of the

leases made up over 50% of the total area in calculating the weighted average, and that four of the leases had terms of 1 to 1.5 years and were atypical. One of the leases was for Gulf Canada Square which is generally considered to be an A building in the marketplace as well as in a previous MGB order. The remaining leases support the requested rate of \$24/SF.

Respondent's position:

The valuation date for the 2010 assessment year is July 1, 2009. Recognizing that previous Board decisions considered leases from Q2 2009 to be most representative of the market at July 2009, the Respondent presented 14 leases of Class B buildings in DT2 of both B+ and B- buildings, with lease terms ranging from 1 year to 5 years and lease rates between \$18 and \$38/SF. The weighted mean of the B+ leases was \$30.12/SF and the B- leases was \$30.40/SF.

The Q2 2009 leases in DT1 supports the \$26 lease rate applied to the subject.

Decision and Reasons:

In analyzing the leases submitted, the Board did not consider the *post facto* leases, leases prior to Q2 2009, leases not in DT1 and leases with terms of 1.5 years or less. The Grain Exchange Building, a five storey heritage building constructed in 1909, and Gulf Canada Square, considered to be an A building, were not comparable to the subject. The Board looked at the remaining leases and determined the following were relevant:

Building Name	Address	Class	Lease Area SF	Start Date	Term	Rate \$/SF
Canada Place	407 2 St SW	B+	5476	04/01/2009	4.4	38
Eau Claire Place II	521 3 Ave SW	B+	1337	04/01/2009	3	25
Hanover Building	101 6 Ave SW	B+	1526	05/01/2009	5	23
Hanover Building	101 6 Ave SW	B+	2781	04/15/2009	5	21.5
Watermark Tower	530 8 Ave SW	B+	1747	05/01/2009	3	18
Canadian Mercantile Bank	441 5 Ave SW	B-	3837	04/15/2009	2.5	28
Lancaster Building	304 8 Ave SW	B-	1400	05/01/2009	5	25
Weighted Mean						28.19
Mean						25.50
Median						25.00

On balance, the Board is of the opinion that the DT1 leases support the \$26/SF used in the assessment of the subject building.

Issue 2: Vacancy rate

Sublease vacancy should not be included in the vacancy allowance for the purposes of calculating net operating income for valuation purposes, for the same reasons as detailed in CARB 2056/2010-P for the previous hearing. Therefore an 8% vacancy allowance is appropriate.

Issue 3: Capitalization rate

The presentations and argument with respect to cap rates was the same as that presented in

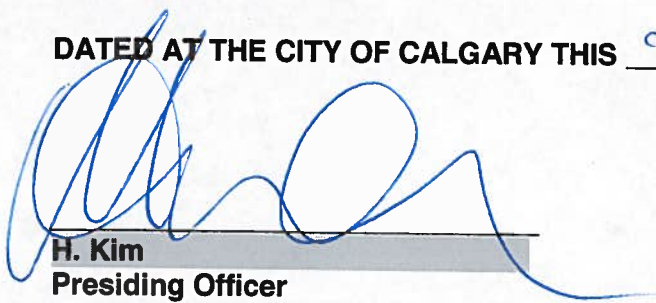
the previous hearing and detailed in CARB 2056/2010-P. In the absence of sales, the Board agrees it is reasonable to rely on industry market reports and is generally in agreement with the conclusion of previous Board decisions that in view of the market conditions and the high level of sublease vacancy at the valuation date, the selection of a cap rate at the lowest end of the reported range is not reasonable. The Board notes that the Respondent's rationale for selecting the lower end of the range of cap rates is not supported because the actual rents achieved in the subject are substantially lower than the typical market rent applied.

Nevertheless, in view of the location of the subject and its proximity and connection by +15 to the AA buildings in the central core of the DT1 zone, the Board is convinced that an 8% cap rate, at the low end of the range for B class buildings, is reasonable for the subject.

Board's Decision:

The complaint is denied and the assessments confirmed at \$38,120,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF November 2010.



H. Kim
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE BOARD:

NO.	ITEM
C1	Complainant Form
C2	Complainant's submission
C3	Prior CARB decisions
C4	Prior CARB decisions
C5	Typical Market Rates Class B time adjusted
C6	Typical Vacancy Analysis
C7	Downtown Office Sales Evidence
C8	Market Change Evidence
C9	Downtown Photographs CARB 2010
C10	MGB Board Orders and Judicial Reviews Part 1
C11	MGB Board Orders and Judicial Reviews Part 2
R1	Respondent's submission
R2	Respondent's additional information
R3	MGB orders 045/09 and 145/07
R4	Judicial review of MGB 145/07
R5	Photograph of Grain Exchange Building

APPENDIX 'B'
ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

Chris Hartley	Colliers International Realty Advisors, Complainant
Scott Meiklejohn	Colliers International Realty Advisors, Complainant
Walter Krysinski	Assessor, City of Calgary, Respondent
Harry Neumann	Assessor, City of Calgary, 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.*