

**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:	068053404
LOCATION ADDRESS:	333 5 Ave SW
HEARING NUMBER:	58672
ASSESSMENT:	\$93,440,000

This complaint was heard on the 3rd and 4th days 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 a 17 storey office building constructed in 1978 on the south east corner of 5th Avenue and 3rd Street with a 15,600 SF floor plate and 226,365 SF of office space, 2,357 SF of main floor retail, 15,398 SF of upper level retail and 122 parking stalls on a 25,633 SF parcel of land. 7,891 SF of main floor retail space is occupied by the University of Alberta and assessed as office.

It is located in the DT1 district of downtown Calgary and is classified as an A building. It is assessed on the income approach based on typical Class A assessment parameters of \$28/SF for office, \$50/SF for upper retail, \$40/SF for lower retail, \$10/SF for storage and \$475/month for parking. 3% office vacancy, 8% retail and storage vacancy and operating costs of \$18/SF for office, \$14/SF for retail and \$5/SF for storage are applied and the resulting net operating income is capitalized at 7.5% to arrive at the full assessment value. The University of Alberta space is exempt and its value is deducted 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 subject is misclassified as an A building and assessed inequitably with similar buildings.
2. The rental rate for the offices should be decreased to \$24.50 from \$28 and the retail rate should be decreased to \$32/SF.
3. The parking rate should be decreased to \$400/month from \$475/month
4. The vacancy rate should be increased to 15%.
5. The capitalization rate should be increased to 9%

Complainant's Requested Value:

\$23,360,000 revised to \$55,300,000 at the hearing.

Board's Decision in Respect of Each Matter or Issue:**Issue 1: Building Classification****Complainant's position:**

In the appeal of the 2008 assessment of the subject building, the MGB had determined that the best comparables for the subject were the Chevron, Stock Exchange and Royal Bank buildings. These are all assessed as B class buildings at \$304.58 to \$312.99/SF and the subject is inequitably assessed as an A class building at \$388.38/SF. The Complainant pointed out the following characteristics which are inconsistent with considering the subject an A building:

- Retail rental rates: assessment parameters for retail is \$50/SF for upper (+15 level) retail and \$40/SF for the lower (main) level. The subject building has historically experienced difficulty

leasing its retail space. A large portion of the lower level retail was converted to office, and the remaining main floor retail is 100% vacant. The +15 level also has almost 6,000 SF of vacant space, and the spaces that were leased in 2008 and 2009 achieved rents of \$30/SF for a 455 SF hair salon (Feb 2009), \$43/SF for a 654 SF newsstand (Nov 2008) and \$25/SF for a 1,600 SF cafe (May 2008). A reasonable weighted average is \$32/SF which is the rate applied to B class retail in DT1, as noted on the assessment detail for the Fourth and Fourth building submitted (p48, C2).

- The rent rolls for the subject indicate 10% vacancy at the valuation date, 7.45% in April 2009 and 14% in December 2009 compared to the 3% allowance applied to Class A buildings. The historical vacancy rates after 2007 for the subject have been much higher than average Class A vacancies, and closer to Class B vacancy rates.
- The subject has month-to-month tenancies for 25% of the total office rentable area. This is atypical for Class A buildings which are generally characterized by larger tenancies with longer terms.
- The subject has a precast concrete exterior compared to polished stone and curtain wall exteriors of typical Class A buildings. The Complainant presented photographs of Class A buildings compared to the subject and other Class B buildings, and suggested that the appearance of the subject is that of a Class B building.
- Class A buildings generally have atrium lobbies and a retail podium with tenant amenities such as a food court and bank, characteristics lacking in the subject.

The subject has the physically characteristics of a B building, although in an A location. It is comparable to other B class buildings and should be assessed as such.

Respondent's position:

Factors that determine the classification are location, physical condition, building functionality, year of construction, number of stories, total net rentable area, floor plate, type and quality of construction, quantity of retail space, +15 connectivity, on-site parking capacity and building tenant amenities. The Respondent stated that it is not so much the physical characteristics but the income generating capacity of a property that determines its class.

The subject is a lower-end A building. It is in a prime location, attached by +15 to First Canadian Place through to TD Square and the main downtown retail mall. It has a 15,600 SF floor plate, consistent with a Class A average floor plate of 16,000 SF. It achieves parking rates of \$470 to \$510/month, consistent with the Class A parking rate of \$475.

It achieves office rental rates of \$38/SF as noted on the month to month leases. While the Respondent agreed that month to month leases were atypical in Class A buildings, and that a landlord would generally prefer a longer term lease, the month to month term suggests that the \$38/SF rate is market for the subject, as the tenant could readily give notice and move out if the space were worth less than this. This rate is consistent with other Class A buildings.

Decision and Reasons:

The Board notes that CRESA classifies the subject as an A building, but also notes that other buildings are also classified by CRESA as A, but are assessed by the Respondent as B class buildings. There was much discussion of physical characteristics that determine the classification, but the Board agreed that the relative performance of a building in the market place would best determine its classification.

The Board found the most compelling evidence of the subject property's relative performance could be found in the CRESA vacancy statistics (p30-122, C8) and compared the subject over several quarters to the average for Class A and Class B buildings:

Head lease vacancy - %			
Period	Subject	Average A	Average B
Q2 2007	0.00	0.49	0.94
Q4 2007	3.01	1.05	4.08
Q2 2008	2.04	1.48	4.80
Q4 2008	3.98	1.30	7.56
Q2 2009	10.45	1.88	8.73
Q4 2009	12.96	3.34	8.73

With the exception of Q2 2007, the vacancy rate in the subject has been consistently higher than the average for Class A buildings, and closer to that expected in Class B buildings.

This analysis, along with the low rental rates and high vacancy of the retail space, as well as the high proportion of month to month leases suggests the subject does not perform as a typical A building. While the Board agrees that the subject is in a superior location, the performance of the property makes it more properly classed with other similar properties as a B building within DT1.

Issue 2: Rental rate

Having found that the subject property should be classified as a B building, the presentations and argument with respect to office rental rates presented in the previous hearing and decided in CARB 2057/2010-P are applicable, and for the same reasons the Board finds the office rental rate for the subject, a B building in DT1, should be \$26/SF. The Board does not agree that the \$38 rate paid for month to month space necessarily reflects market. It was noted that the tenant also has longer term space at \$15/SF and might have other motivations to retain additional space at a higher than market rate.

The retail rate for both upper and lower level retail should be \$32 based on what is achieved in the subject and the rates applied to other retail space in Class B buildings in DT1.

Issue 3: Parking rate

The only evidence to support the lower parking rate requested was the rate applied to other Class B buildings. The Board is of the opinion that parking rates are more a function of location than class of building, as evidenced by the rates actually achieved in the subject property. Both parties agreed that the subject was in an "A" location. Accordingly, the Board concludes that the A class parking rate is appropriate for the subject property.

Issue 4: 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. While the subject suffers from a higher vacancy than typical for a Class B building, there was no suggestion that this was chronic vacancy.

Therefore the 8% vacancy allowance applied to other Class B buildings is appropriate.

Issue 4: 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 weighted average of the rents achieved in the occupied space in the subject property is \$25.86/SF, slightly lower than the \$26/SF typical market rent.

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 allowed, in part, and the assessment reduced to \$75,760,000 less \$2,180,000 exempt for a total assessment of \$73,580,000 based on Class B parameters of \$26/SF office, \$32/SF for both levels of retail, 8% office vacancy, office operating costs of \$16/SF and 8% cap rate with all other parameters unchanged.

DATED AT THE CITY OF CALGARY THIS 15 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
C12	Revised request – Capitalization rate correction
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
R6	Assessment Brief Additional Information

APPENDIX 'B'**ORAL REPRESENTATIONS****PERSON APPEARING CAPACITY**

Chris Hartley	Colliers International Realty Advisors, Complainant
Scott Meiklejohn	Colliers International Realty Advisors, Complainant
Walter Krynski	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.*