

**CALGARY  
COMPOSITE ASSESSMENT REVIEW BOARD (CARB)  
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(4).

**between:**

***Colliers International Realty Advisors, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***P. Irwin, PRESIDING OFFICER  
J. Mathias, MEMBER***

A hearing was convened on November 5<sup>th</sup>, 2010 in Boardroom 10 at the office of the Calgary 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>200779387</b>
<b>LOCATION ADDRESS:</b>	<b>119 12 AV SW</b>
<b>HEARING NUMBER:</b>	<b>57576</b>
<b>ASSESSMENT:</b>	<b>\$50,680,000</b>

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

The subject property is a 2.11 acre parcel of land in the Beltline District of SW Calgary on the south side of 12<sup>th</sup> Avenue between 1<sup>st</sup> and Centre Streets. A 12-story, full service hotel, known as Hotel Arts, and a 3-story multi-tenant office and retail building, known as the Gallery at Hotel Arts, are situated on the subject. The zoning is Centre City Mixed Use (CC-X) and Centre City Commercial Corridor (C-COR). The subject is assessed on the income approach to valuation.

**PART B: PROCEDURAL OR JURISDICTIONAL MATTERS**

There were no objections to the composition of the Board, nor were there any jurisdictional matters.

**PART C: MATTERS/ ISSUES/ POSITIONS OF THE PARTIES**

1. Has an incorrect room count caused the hotel assessment to be too high?
2. Is the assessed rent rate on the office component of the Gallery too high?
3. Is the assessed rent rate on the retail component of the Gallery, on 1<sup>st</sup> Street, too high?
4. Is the assessed rent rate on the retail component of the Gallery, on 13<sup>th</sup> Avenue, too high?
5. Is the 8.5% vacancy rate on the retail component of the Gallery, on 13<sup>th</sup> Avenue, too low?

The Complainant provided the Board with an overview of the subject property and reviewed some photos of it. The hotel was originally a Holiday Inn, which was subsequently upgraded to a boutique hotel. More recently, The Gallery at Hotel Arts, which is a three storey addition of office and retail space, replaced parking space beside the hotel, and was completed in late 2009. Marketing began in 2007. The Gallery has 25,841 sf of retail space on floor 1 and 57,707 sf of office space on floors 2 & 3.

The Complainant advised the Board that, in early 2009, 10 out of the original 185 guest rooms were converted back to offices for the hotel's operations. It was submitted that, if the Indicated Value is \$117,004 per room, then the hotel assessment at the July 1, 2009 date should be reduced by ~\$1,170,000 (i.e. from \$21,645,697 to \$20,475,700).

The Complainant then discussed the assessment of the office portion of the Gallery, comprised of 57,707 square feet (sf) of space. The main floor entrance to the office space, from 13 Avenue SW, was atypically small. An AA building is going to have a more luxurious lobby to achieve the \$29 face rate. At page 22, a spreadsheet on Rental Concessions showed that the space was totally occupied by one tenant ("Matrix Solutions"), and although their lease started on February 1, 2009 with a face rate of \$29/ sf, the actual rent over the 10-year lease period averages out to ~\$25/ sf because of rent abatements over the term of the lease. He then reviewed a Beltline Done Deals spreadsheet with six headlease particulars for comparable properties. The basic rent for these deals ranged from \$18.50 to \$27/ sf. The submission stated that the tables demonstrated that the average net rental rate for the subject office space over the term is \$25/ sf, whereas the assessed rate is \$28/ sf.

The Complainant also discussed the assessment of the retail space, with 10,850 sf of space on 1<sup>st</sup> Street and 14,721 sf on 13<sup>th</sup> Avenue. While the 1<sup>st</sup> Street retail space reached full occupancy within a reasonable time, the space on 13<sup>th</sup> Avenue has been more problematic. Whereas the retail space was assessed at \$32/ sf, the Complainant requests a rate of \$29/sf for the space on 1<sup>st</sup> Street and \$20/sf for the space on 13<sup>th</sup> Avenue. A spreadsheet was reviewed showing rental concessions on the leases for the 1<sup>st</sup> Street tenants, with Starbucks in the space at the corner of 1<sup>st</sup> Street and 13<sup>th</sup> Avenue. While the lease face rates ranged from \$29/sf to \$36/sf, the weighted average net rent over the term of the leases was \$28.86/sf, because four out of five of the leases included periods of free rent.

For the retail space on 13<sup>th</sup> Avenue, the Complainant contends that it is not primary space because that avenue is not a high traffic one nor is it a commercial one (with an old apartment and a headstone monument craftsman directly south. The remainder of the block is desolate and culminates with "Cash Corner". These features are not particularly inviting for retail traffic. The Complainant noted that there was no leasing in place in 2009, although as of June, 2010, a hairdresser (HedKandi) has leased 3,118 sf of space. The Complainant contended that the best comparable is Sasso/Vetro at MacLeod Trail and 15<sup>th</sup> Avenue SW. Post-facto leasing data in a vintage building several blocks west on 10<sup>th</sup> Avenue SW showed leases in the \$20 - \$22 range.

The Complainant requested that the overall assessment for The Gallery be reduced from \$29,036,000 to \$21,542,500.

The Respondent reviewed the calculation spreadsheet showing the derivation of the assessment for the hotel, noting that the Rushmore method is used, not only for Calgary hotels, but also for those throughout Alberta and, indeed, North America.

The Respondent then reviewed two tables of data (pp. 30 & 31) on AA Building Office Leases in the Beltline. The first showed data on 16 leases, with rates ranging from ~\$27/sf to ~\$33/sf and a weighted average of \$28.28/sf. The second showed the same data plus two post-facto leases in the Keynote Building (\$27 & \$30/sf), with a weighted average of \$28.73/sf. All were assessed at \$28/sf.

The Respondent also presented a recent CARB decision (#1612/2010-P) in which the assessment for the property at 227 – 11<sup>th</sup> Avenue SW (the IBM Building) was confirmed, using a rate of \$28/sf for office space.

With respect to assessment rates for retail space, the Respondent provided a table (p. 32) showing lease information for six leases in AA buildings in the Beltline area, with rates ranging from \$24/sf to \$45/sf. These included three post-facto leases. Also presented was a table (p. 34) showing three leases in A+ buildings, two at \$30/sf and one at \$37/sf. The Respondent contended that even inferior locations were being signed at \$30/sf.

#### **Board's Findings and Reasons in Respect of Each Matter or Issue:**

##### **Issue #1:**

The Board finds that the assessment of the hotel is predicated on audited financial statements provided by the owner. The assessment is based on the Rushmore methodology that looks at trailing data from three years of financial statements and is accepted as a consistent approach by all hotels in the City. The 2010 assessment is based on historical financial data for the calendar years of 2006, 2007 and 2008 and the calculations were based on 185 rooms, as supplied by the owner. No data was provided to prove that the lower room count for a portion of 2009 would or would not directly affect the indicated value per room. The Board would expect, however, that the 2011 assessment might begin to reflect some impact in the 2009 financial statement from a reduced room count. The Board finds that the 2010 hotel assessment is correct, based on financial statements and confirms that portion of the assessment at \$29,645,697.

##### **Issue #2:**

The Board finds that there was no support for rent concessions. Documentation was lacking to support claim and detail was not provided to determine if it was related to tenant improvements or inducements. The Complainant's market leases gave no indication of comparability of space at 550

11 Avenue SW (the July 1 lease). The other relevant lease from May 1, 2009 is in Central Park Plaza, an older building and not established to be comparable. The remaining leases were from fall 2007 to mid-2008 or had a post-facto commencement date. The Board finds the Respondent's lease data to be more compelling and therefore, the Board confirms the office assessment rate at \$28/sf.

Issue #3:

The Board finds that the retail face rates support the assessed rate of \$32/sf and therefore the rate is confirmed. While there appeared to be significant concessions, the calculations of those were not explained nor verified. Without more evidence to support the concessions, the Board was only left to speculate on the terms and whether or not they were indicative of market rent.

Issue #4:

While the Board concurs with the notion that the space on 13<sup>th</sup> Avenue is not primary retail space, there was not sufficient evidence to conclude that the rate was excessive, or alternatively, that the \$20 rate was the correct one. The Board noted that there was no evidence (floor plans, for example) to confirm the split between the retail space on 13<sup>th</sup> Avenue and 1<sup>st</sup> Street SW and that conflicting sizes were referred to in the Complainant's disclosure documents (14,721 sf vs. 14,991 sf). The Respondent only assessed the entire retail space at 25,841 sf. Had the Board decided to reduce the rate for the 13<sup>th</sup> Avenue retail space, it would not have known which area was correct for re-calculation purposes. While the Respondent provided data to support its \$32/sf rate, it may have been more appropriate for retail space that is superior to the subject. The Board gave careful consideration to the lease space in the Sasso/ Vetro building, at ~\$20/sf, as evidence of retail in the area without prime exposure, but did not have sufficient information or photos to gauge how comparable it really is. The Board notes that no lease rate information on the new tenant (HedKandi) was provided, or perhaps asking rates for the space, which might have been helpful for guidance. In summary, the Board did not find enough compelling evidence to change the assessment rate for the retail space on 13<sup>th</sup> Avenue.

Issue #5:

The Board finds that there is no evidence of chronic vacancy (defined as three years) on the 13<sup>th</sup> Avenue retail space as of the valuation date, since it is new space. The Board accepts that, despite pre-leasing activity, new space may take some time to fully lease up, and this is not atypical.

**PART D: FINAL DECISION(S)**

The 2010 assessment on the subject property is confirmed, at \$50,680,000.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF December 2010.

**P. Irwin**  
**Presiding Officer**

**APPENDIX "A" : ORAL REPRESENTATIONS**

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
<i>Christopher Hartley</i>	<i>on behalf of Colliers</i>
<i>David Porteous</i>	<i>on behalf of Colliers</i>
<i>Jim Toogood</i>	<i>Assessor, City of Calgary</i>
<i>Dale Grandbois</i>	<i>Assessor, City of Calgary</i>

**APPENDIX "B" : DOCUMENTS RECEIVED BY THE ASSESSMENT REVIEW BOARD**

Document C – 1	Complaint Brief (considered)
Document R – 1	Respondent's Brief (considered)
Document R – 2	CARB Decision 1612/2010-P

*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.*