

**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, Section 460, Revised Statutes of Alberta 2000 (the Act).

**between:**

***Roslyn Building Holdings Inc. (as represented by the Altus Group), COMPLAINANT***

**and**

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

**before:**

***Paul G. Petry, PRESIDING OFFICER  
Borodin Jerchel, MEMBER  
Maurice Peters, 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 2011 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>009023102</b>
<b>LOCATION ADDRESS:</b>	<b>7236 – 10<sup>th</sup> Street N.E. Calgary</b>
<b>HEARING NUMBER:</b>	<b>64728</b>
<b>ASSESSMENT:</b>	<b>\$6,000,000</b>

This complaint was heard on 13th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *Ms Danelle Chabot*

Appeared on behalf of the Respondent:

- *Ms Christina Neal*

**Property Description:**

The subject property is a 36,428 square foot office warehouse building located in the Deerfoot Business Centre in Northeast Calgary. The subject property was constructed in 1999 and consists of approximately 35% office space with the remaining 65% of the space being warehouse space. This property and all other properties placed in the "office warehouse" category were assessed using the capitalized income approach in 2011.

**Issue:**

Has the subject property been assessed in an equitable manner considering the assessments of similar properties? This issue centres primarily on the rental rate assigned to the subject property by the assessor.

Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB) on March 7, 2011. The only issue however, that the parties brought forward in the hearing on June 13, 2011 before the Composite Assessment Review Board (CARB) is that referred to above, therefore the CARB has not addressed any of the other matters or issues initially raised by the Complainant.

**Complainant's Requested Value:**

Based on a reduction in the rental rate for the subject from \$15 per sq. ft. to \$12 per sq. ft. the Complainant requested a reduction in the assessment from \$6,000,000 to \$4,790,000.

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

The decision of the CARB is to confirm the subject assessment at \$6,000,000.

**Summary of the Party's Positions**

The Complainant introduced three comparable properties all within the Deerfoot Business Centre which had been assessed using the identical assessment parameters as the subject except for the rental rate. The subject has been assessed using a rate of \$15 per sq. ft. while the comparables were assessed using a \$12 per sq. ft. rate. The age of the Complainant's

comparables ranged from 1992 to 2000 and all have a larger office component than that of the subject. The Complainant's evidence shows that the assessments for the comparables produce a very tight range of values being \$131.51 to \$134.46 per sq. ft. vs. the subject's assessment at \$164.71 per sq. ft. The Complainant also provided the CARB with photographs of the subject and the comparables along with assessment details in support of its comparability conclusions. The Complainant acknowledged that it appears the Respondent is assigning a class "A" or "B" to properties in the office warehouse category but without any clear guiding criterion and this has led to the inconsistency and confusion affecting the subject.

The Respondent indicated that the subject is a class "A" building and the comparables used by the Complainant were classed as "B" buildings at the time the complaint regarding the subject property was filed. One of these properties (5735 – 7<sup>th</sup> Street N.E.) has since been reclassified by the Assessor as an "A" building and the assessment has since been amended to the \$15 rental rate. In addition the Respondent provided an Altus document to show that the Altus Group had also classed the subject as an "A" building according to materials on their web site.

The Respondent provided the CARB with six comparable properties that had been assigned a rental rate of \$15. Only one of these comparables was located in the Deerfoot Business Centre. This property was the comparable also brought forward by the Complainant located at 5735 - 7<sup>th</sup> Street N.E. which the Respondent had recently reassigned to an "A" class building. The other comparables were located in other northeast districts and one in the southeast. The year of construction for these comparables ranged from 1980 to 2008. The only other evidence provided about these properties by the Respondent were photographs of their exteriors. The Respondent argued that based on these comparables, the assessment of the subject is equitable and the assessment should be confirmed. The Respondent also provided the rent roll for the subject indicating that a lease was signed in 2000 at a rate of \$16.98 per sq. ft. While this lease has just expired and because it is dated it would not have been included in the Respondent's rate analysis for 2011, it nevertheless should be a consideration.

In rebuttal the Complainant reviewed evidence which it believed shows the inconsistency with the Respondent's classification of "A" vs. "B" buildings and the lack of similarity of the Respondent's comparables with the subject.

The comparable located at 1001 – 53 Avenue N.E. is a 29 year old warehouse reported to be in average condition and yet it is classed by the Respondent as an "A" building.

The Respondent's comparable at 1107 – 53 Avenue is shown by the Respondent's 2009 Property Detail Report and other documentation as being solely office space not office warehouse as the subject. The Complainant argued that properties that are solely office or have a larger office component will typically lease at higher rates than those with less office space. The rent roll for this property shows that a lease was signed in April 2008 at \$25 per sq. ft.

The Complainant provided photographs and a City of Calgary Request for Information for 2721 Hopewell Place N.E. This information shows a modern office warehouse with a 2007 lease at \$13 per sq. ft. signed at the peak of the market has been assigned to the "A" classification regardless of the lower rent being achieved.

The Complainant provided a number of photographs of the Respondent's comparable at 2827 - Sunridge Boulevard N.E. and suggested that this building as well appears to be solely an office building and not comparable to the subject.

Finally the Complainant provided a photograph of the laboratory/manufacturing area of the Respondent's comparable located at 2840 – 2 Avenue S.E. This photo shows some improvements perhaps beyond the typical warehouse; however the Respondent treats such space as warehouse space.

The Complainant argued that the Respondent has not provided any evidence nor has the Respondent been able to explain the distinction or criterion used to classify office warehouse properties as either "A" or "B" buildings. The evidence shows wide variation in age, office/warehouse ratios and lease rates among those properties classed as "A" properties. The Complainant requested that the CARB place greatest weight on the Deerfoot Business Centre comparables and provide equity for the subject with these properties by reducing the rental rate to \$12 per sq. ft.

#### **Findings and Reasons for the Board's Decision:**

The Complainant and the CARB posed many questions to the Respondent respecting the distinction between the "A" and "B" classes of office warehouse properties and also the how determinations are made to distinguish the "office warehouse" category of property from those properties classed as "warehouse" but nevertheless have considerable office space. The Respondent indicated that many factors are considered including age, office finish, and lease rates but there are no defined criterion which lead to these decisions of the Assessor. The Assessor must review all of the factors for each property and make a judgement as to which category is appropriate. Given the evidence before the CARB it is our conclusion that there are many inconsistencies respecting the attributes of properties assigned to each of these classes. The Respondent's comparables have been brought in to question as to their similarity with the subject and therefore the CARB has found that they may not be reliable value or equity indicators.

On the other hand the CARB has not placed significant weight on the Complainant's comparables which although they have greater percentage of office space than does the subject and are located within the Deerfoot Business Centre, they do have some differences of concern.

The comparable located at 1020 – 68 Avenue N.E. is more than triple the size of the subject and there may be an economy of scale factor which would justify the application of a lower rental rate in that case.

Despite the fact that the CARB does not have a full explanation as to why the Respondent took this action, the property located at 5735 – 7<sup>th</sup> Street N.E. has been reassigned to the "A" class and this amendment eliminates the disparity in assessment with the subject.

The last comparable located at 919 – 72 Avenue N.E. is owner occupied and was constructed in 1992. Based on the photographs of this building it appears it may not necessarily meet the same standard of construction and condition as the subject.

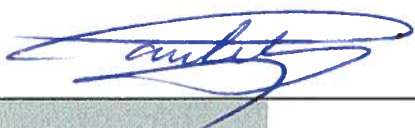
Based on the limited number of comparable properties brought forward by the Complainant and the above noted differences when compared to the subject, the CARB did not find this evidence

to be sufficiently compelling to grant relief based on inequity. Further the CARB did take note that the subject had been leased at a rate of \$16.98 per sq. ft. 2000 through 2010. The Complainant has not argued that the assessed rate of \$15 per sq. ft. was not achievable by the subject and failed to bring forward evidence concerning the lease renewal rate. The CARB therefore has no reason to believe that a rate of \$15 per sq. ft. is not appropriate from a performance perspective.

In the final analysis while the CARB has concerns with the approach used by the Respondent respecting its classification of "A" and "B" office warehouse buildings, the Board did not have a sufficient quantum of compelling evidence to support a decision to adjust the rental rate in this case to \$12 per square foot.

For the reasons reviewed above the CARB was not convinced that the subject property has been inequitably assessed and confirms the 2011 assessment at \$6,000,000.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF June 2011.



Presiding Officer  
Paul G. Petry

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant's Rebuttal
3. R1	Respondent Disclosure

**An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:**

**470(1)** *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.*

**470(2)** *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).*

**470(3)** *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*