

**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:

20 Vic Management Inc., (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, T. B. Hudson
D. Steele, MEMBER
J. Lam, 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 2012 Assessment Roll as follows:

ROLL NUMBER: 067075598

LOCATION ADDRESS: 510 8 AV SW

HEARING NUMBER: 67836

ASSESSMENT: \$91,080,000

This complaint was heard on the 3rd and 4th days of July, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *D. Hamilton- Agent, Altus Group*
- *K. Lily- Agent, Altus Group*
- *R. Ferguson- Witness, 20 Vic Management Inc.*

Appeared on behalf of the Respondent:

- *E. Borisenko- Assessor, City of Calgary*
- *A. Czechowskyj- Assessor, City of Calgary*

Board's Decision in Respect of Procedural or Jurisdictional Matters:

[1] The Respondent objected to the inclusion of a negative rental rate for one of the retail spaces in the subject property. The Complainant indicated that this was an error which would be corrected in the course of the hearing. The Board accepted this explanation and there was no further objection from the Respondent

Property Description:

[2] The subject property is a 1.48 acre parcel of downtown commercial land, and is improved with 212,745 square feet (sf.) of AA quality retail space including Holt Renfrew and Company, H&M, Eveline Charles, and Melanie Lynn/Laura stores, as well as 298 underground public parking stalls.

[3] Originally constructed in 1987, the subject property is part of "The Core"; an extensive three level retail redevelopment located in the heart of downtown Calgary from 2nd ST to 4th ST between 7th and 8th AV SW. "The Core" includes both the class AA office/retail shopping centre known as the Eaton Centre, and the class A TD Square. The +15 shopping corridor connects "The Core" to the class A Scotia Centre and the Bay department store. The +15 walkway also links most of the office towers in the downtown including the AA quality Bankers Hall., to "The Core". The redevelopment began in 2009 and was completed in 2011.

[4] The land and improvements of the subject property were assessed based on the capitalized income approach to value to a total of \$91,080,000(rounded), or \$428.11 per square foot (psf.).

Issues:

[5] The Complainant identified **the Assessment Class**, and **the Assessment Amount**, as the issues of concern in Section 4 of the complaint form. The sub-issues included the assessed area, the number of parking stalls, as well as the market rental rates, vacancy rate, the rate for non-recoverable expenses, and the capitalization rate applied in the income approach to assessment value calculation.

Complainant's Requested Value: \$56,870,000(rounded), or \$279.30 psf.

Board's Finding in Respect of Each Matter or Issue:**Assessment Class**

[6] **The Board finds that "The Core" which includes the subject property, is superior in location and quality to the regional shopping centre properties identified by the Complainant as comparables.**

[7] The Complainant argued that "The Core" should be reclassified and considered a Regional Shopping Centre, and assessed in the same manner as regional shopping centre properties located outside of the downtown commercial area. These centres included the Sunridge Mall, the Marlborough Mall, the South Centre, the Market Mall, and the Chinook Centre. Similar features included tenant mix, and comparable retail sales per square foot. (page 7 of Exhibit C1).

[8] The Respondent argued that due to superior location and quality, "The Core" is not comparable to the regional shopping centres identified by the Complainant. The best comparables are retail shopping/office centres located in the downtown such as the AA quality Bankers Hall and the A quality Scotia Centre. In fact, "The Core" incorporates two of these retail shopping/office centres; the AA quality Eaton Centre, and the A quality TD Square, (page 98 of Exhibit R1).

Assessment Amount**Sub-Issues:****[a] Market Rent**

[9] The Board finds that market rent for the purposes of the assessment of the subject property, should be based on typical rates for AA quality office/retail space in the downtown core. The assessed rate of \$20 psf. is appropriate in this market.

[10] The Complainant submitted that market rental rates for the subject property should reflect the recent individual lease "deal" negotiated by each of the tenants. Each negotiation began with face rent psf. The face rent was then reduced by the value of tenant allowances / improvements psf., amortized over the lease term. The resulting rental rate was then adjusted for a share of common area operating costs. The negotiations produced net rent rates of \$16.23psf., for Holt Renfrew, \$22.56psf., for Eveline Charles, \$11.58psf., for Melanie Lynn/Laura, and a negative \$2.35psf., for H&M,(page 8 Exhibit C1). **The H&M rate was subsequently corrected to \$1.86 psf. This correction resulted in a revised requested assessment of \$58,310,000(rounded), or \$286.37 psf.** The Complainant also submitted relevant tribunal decisions and case law in support of deducting the value of tenant improvements from lease rates to determine market rent for assessment purposes. (pages 33 to 39 of Exhibit C2).

[11] The Respondent argued that market rent should not be reduced by the cost of tenant improvements, because the legislated property assessment standard in Alberta requires that the full fee simple interest be assessed. The standard is set out in Alberta Regulation 220/2004 Matters Relating to Assessment and Taxation Regulation (MRAT) Part 1 Section 2(b). This interest includes the value of shell space, as well as the value of tenant improvements. For assessment purposes, it does not matter whether the landlord, or the tenant, paid for the improvements. The Respondent also noted that the tribunal decisions and case law identified by the Complainant in support of deducting the cost of tenant improvements, are only relevant in the context of assessments for business tax purposes.

[12] The recent leases signed by Holt Renfrew and the other tenants in the subject property all exceed the \$20 psf. assessed rental rate. (page of 39 Exhibit R1).

(b) Vacancy Rate

[13] The Board finds that the vacancy rate for the subject property should be based on typical rates for parking (i.e. 2%), and retail space downtown (i.e. 5%).

[14] The Complainant submitted the rent rolls for the Eaton Centre, the TD Square, and the Shopping Corridor, as well as the Assessment Request for Information (ARFI) for the subject property. The summary of the information (page 102 of Exhibit C1), supported an overall 7.2% vacancy rate for "The Core". The Complainant argued that this rate should be applied to both retail space and parking in the assessment calculation.

[15] The Respondent pointed out that both the ARFI, and the evidence of the Complainant, show no actual vacancy in the subject property. However, based on mass appraisal, the typical vacancy rates of 2% for parking and 5% for retail space, have been applied in the assessment of downtown retail space, including the subject property.

(c) Non-Recoverable Expense Allowance Rate

[16] The Board finds that the assessed rate of 2% is appropriate.

[17] The Complainant argued that the assessed rate of 4% for non-recoverable expenses applied to regional shopping centres such as the Sunridge Mall, should be applied to the subject property in order to establish equity in the assessment.

[18] The Respondent argued that the subject property is superior in both location and quality when compared to regional shopping centres, and therefore the rate of 2%, applied to typical downtown retail areas is equitable.

(d) Capitalization Rate

[19] The Board finds that the capitalization rate for the subject property should be based on the rate (i.e. 6%) for AA quality office/ retail space downtown.

[20] The Complainant submitted the assessed capitalization (cap) rates for the regional shopping centres located outside the downtown core, which are all either 6.5% or 6.75%, as compared to the cap rate (i.e. 6%) for the subject property, (page 7 of Exhibit C1). The Complainant suggested that a cap rate of 6.75% should be applied in order for the assessment of the subject property to be equitable with other regional shopping centres, specifically, the Sunridge Mall and the Marlborough Mall.

[21] The Respondent reiterated that "The Core", which includes the subject property, is superior with respect to location and quality to the regional shopping centres located outside the downtown. However, the current assessed cap rate does maintain equity with other retail shopping areas in the downtown. The 2012 assessed cap rates for AA and A quality downtown office buildings are 6.25% and 6.75% respectively.

[22] Historically, downtown office buildings such as the Eaton Centre, and the TD Square, with retail shopping areas ranging from 10 to 30% of rentable space, have assessed cap rates 0.25% lower than office buildings of the same quality, but with retail areas of 1 to 3% of rentable space. This relationship is as a result of the lower investment risk associated with retail versus office space.

[23] The subject property, which has 100% AA quality retail space, therefore has a 6% cap rate applied to net operating income, reflecting both relatively low investment risk, and equity with AA quality office/retail properties in the downtown such as Bankers Hall (page 98 and 99 of Exhibit R1).

[24] The Respondent submitted sales data and third party reports in support of the cap rates applied in the assessment of office/ retail properties in the downtown commercial core (pages 101 to 149 of Exhibit R1).

[25] The Complainant pointed out that most of the Respondent sales data was post facto, and that the cap rates published in third party reports should not be relied upon for assessment purposes(pages 23 to 27, and 43 to 55 of Exhibit C2). The Complainant did not submit any market sales data or cap rate evidence.

(e) Assessed Area and Number of Parking Stalls

[24] The Board finds that the assessed area, and parking stalls of the subject property should be corrected, and the assessment reduced as recommended by the Respondent.


[25] The Respondent submitted corrected numbers for the assessed area (i.e. 203,870 sf.), and the parking stall count (i.e. 293). Based on these corrections, the Respondent also submitted a revised assessment amount of \$87,960,000, or \$431.45 psf.

[26] The Complainant accepted the corrections, and confirmed that the revised assessment calculation was accurate.

Board's Decision: The assessment is reduced to a revised total of \$87,960,000.

DATED AT THE CITY OF CALGARY THIS 19 DAY OF July 2012.




Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	Respondent Disclosure
4. R2	Subject Property ARFI Documents
5. R3	Case Law B.C. Supreme Court

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.*

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<i>Decision No. 0924/2012-P</i>			<i>Roll No. 067075598</i>	
<u>Subject</u>	<u>Type</u>	<u>Sub-type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Downtown	Classification	Market Value/Equity