

**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:

971789 Alberta Ltd./ 972179 Alberta Ltd., *COMPLAINANT*

and

The City Of Calgary, RESPONDENT

before:

J. Noonan, *PRESIDING OFFICER*

R. Roy, *MEMBER*

D. Julien, *MEMBER*

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER:	024023707
LOCATION ADDRESS:	1111 57 Ave NE
HEARING NUMBER:	61148
ASSESSMENT:	\$13,110,000

This complaint was heard on the 15th day of June, 2011 at the office of the Assessment Review Board located at the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- G. Worsley, Sr. Tax Consultant, Altus Group - *Complainant*

Appeared on behalf of the Respondent:

- M. Lau, T. Neal, Assessors, *The City of Calgary - Respondent*

Property Description:

The subject is located at 1111 57 Ave. NE, Calgary. The property is improved with 2 A+ quality office buildings, a 2-storey built in 2002 and a 3-storey built in 2008, connected by a second-storey enclosed walkway. The buildings attract a NE typical assessed lease rate of \$21 per sf. There is also a 957 sf storage space assessed at a \$3 storage rate, not at issue. The assessed value is \$13,110,000.

Jurisdictional or Procedural Issues Heard:

Ms. Neal advised the Composite Assessment Review Board (CARB) that an error had been discovered in the assessment and that the correct assessment should be \$12,214,547 or a value of \$12,210,000 truncated. The property in earlier years had \$900,000 value related to additional land beyond the value of a single structure on site. In 2008, a second building was added to the site, thereby negating the additional land value. Unfortunately, the City's systems re-populated this year's assessment with the earlier land value, and once an assessment complaint was filed, the Assessor could not correct the amount.

Ms. Neal raised an objection to the inclusion of new evidence in the Complainant's rebuttal package, lease details from a property they were unprepared to address due to rebuttal receipt only 7 days prior to the hearing. As this lease had not been disclosed in the main body of evidence, nor in the City's package, it should be considered new evidence and excluded. Mr. Worsley explained that the lease showed the City had missed a lease, at a lower rate, in the analysis of A+ buildings. The CARB deferred a decision until a context was established. When this was done in the course of the hearing, the Board found that though the lease was problematic for reasons discussed below, the presentation of it in demonstration of other A+ leases was on point. The address might be "new evidence", but the lease was appropriate rebuttal information.

The CARB accepted the corrected amount of the assessment as \$12,210,000 and proceeded to hear the complaint against this new amount which the Complainant still found to be excessive.

Issues:

The complaint form listed a number of issues or grounds for appeal, including that the assessment was in excess of market value, unfair and inequitable in comparison to similar properties, that property details are incorrect, that information requested under ss 299 and 300 of the MGA was not provided, the office classification is unfair, inequitable and incorrect, the

rental rate should be no more than \$15 on the basis of market evidence, and the assessed area was incorrect. At the hearing, the Composite Assessment Review Board (CARB) heard evidence and argument on the following issues:

1. Should the subject's class be changed from A+ to A for reasons of equity?
2. Should the Board reduce the rental rate to \$15 on the basis of market leasing evidence?

The Complainant's requested assessment was \$8,410,000 if the CARB accepted the \$15 lease rate, or \$10,310,000 if the change to A quality was made and the typical \$18 rate applied.

Issue 1: Class

The Complainant advanced 3250 and 3030 Sunridge Way, two buildings of approximately 27,000 sf. each and constructed in 2000 as the best comparables to the subject in size and age. The 2002 vintage building has 22,237 sf and the 2008 single-tenanted building has 32,852 sf. for a total of some 55,000 sf. The Sunridge properties are considered A- and are assessed at an annual typical lease rate of \$18 per sf., as should the subject. Instead, the City groups this property with superior NE buildings such as the Shaw, Golder, and Stantec buildings, as well as the Medallion Corporate Centre and the new Hopewell development. These superior properties have underground parking and the size required to attract large tenants, unlike the subject.

The Respondent referred to several lists of factors that would contribute to a building's classification in the Complainant's evidence package and observed that all that had been supplied was the subject's age, location, and exterior photos. No details of amenities, interior photos, ARFI or how the building rated as to the lists of classification criteria were presented. Where other A quality buildings had been subject of complaint, no mention was made of underground parking when those properties had that feature. While rent rates play a role in establishing class, rents are not the ultimate factor. Rather, at time of construction a field assessor would have inspected the property to determine quality. The Complainant had failed to supply sufficient evidence to justify a change in quality rating from A+ to A.

2. Rent rate

The Complainant explained there were no leases dating from the relevant timeframe, July 1, 2009-2010, for the subject. The same 11 leases from A- quality properties in the NE as had been presented at other complaints were shown, and if one excluded the former Westjet property, a \$16 typical rate was justified, revised from the \$15 rate in the evidence package. The Complainant took exception to some of the leases in the Respondent's study of A+ properties, including two from Medallion Centre at rates of \$35 and \$36 which it was suggested were in the nature of construction leases or the recouping of costs for significant improvements. In rebuttal evidence, a \$13.50 lease was shown at another A+ property, the Yellow Pages building at 2891 Sunridge Way NE and an ARFI dated April 13, 2010 from the Medallion Centre showed some corrections to the City's lease information were required. Specifically, where a 10,006 sf area shown in the Respondent's table to be leased at \$35, the ARFI showed the same area at a face rate of \$24.40; a 2000 sf area at \$36 should have been \$24; and (the CARB notes) a 4176 sf area at \$19 should have been \$21.

The Respondent presented 4 equity comparables, all assessed at the same \$21 lease rate as was the subject. Nine leases were presented, dating from Aug. 2009-July 2010, showing a

range of rates from \$15.75 to \$36 to produce a mean of \$22.75. Five of the leases were from Medallion Centre (1925 18 Av NE). The subject March 2010 ARFI showed the larger subject premise rented to a single tenant at \$24.20, and the smaller building at rates of \$19 and \$20.50. A common area of 1785 sf was also identified on the ARFI, with no leasing information but the same operating costs as for the leased space.

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

The information provided by the Complainant was insufficient to satisfy the CARB that the subject was improperly classified as an A+ quality building. The argument presented was that age, size, and lack of underground parking precluded this property from A+ status. The CARB is given to believe that a lot of other factors contribute to class, not the least being design and quality of construction. Should the Complainant choose to contest the class rating in future, the CARB notes the provisions of ss 299(1.1)(a) of the *Municipal Government Act (MGA)* which call for the production on request of "all documents, records and other information" to show how an assessment was prepared. The Complainant could draw upon the services of the architect and/or engineers who worked on the building to refute the view of the City that this is a superior property.

The NE leases presented by the Complainant were discussed in some detail in the decisions dealing with other A quality NE properties, for instance CARB 0877/2011-P or CARB 0933/2011-P, and the Board refers interested parties to those. The CARB placed little weight on the \$13.50 rebuttal lease mentioned in preliminary matters as it was for a term of only 14 months, atypically short. Those Respondent leases showing rates of \$35 and \$36 were shown to be more properly at face rates of about \$24. The Board noted that if corrections were made to three of the Medallion Centre leases, the median rate of the nine A+ leases presented by the Respondent was \$21, which supports the \$21 assessed rate.

On several occasions in oral evidence and argument the Complainant noted that the common area of 1785 sf in the smaller 22,237 sf building was assessed but generated no income. The suggestion or implication was that this treatment of the common area demonstrated inequitable or excessive assessment. Although the complaint form issues mentioned the assessed area was incorrect, there was no follow-up evidence to show inequitable assessment, only the subject ARFI contained in the City's material. The Complainant's calculation of the requested assessment did not exclude the common area, so the CARB did not feel the point had been elevated to the status of an issue.

Board Decision on the Issues:

The Board reduces the assessment to \$12,210,000.

DATED AT THE CITY OF CALGARY THIS 19 DAY OF July 2011.


for **J. Noonan**
Presiding Officer

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.*