

**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:**

***Kanam 205 Quarry Park Boulevard 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>201101870</b>
<b>LOCATION ADDRESS:</b>	<b>205 Quarry Park Boulevard S.E. Calgary</b>
<b>HEARING NUMBER:</b>	<b>64454</b>
<b>ASSESSMENT:</b>	<b>\$95,070,000</b>

This complaint was heard on 15th 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 and Mr. Graham Kerslake*

Appeared on behalf of the Respondent:

- *Ms Ashley Jerome and Mr. Gary Good*

**Property Description:**

The subject property is a 345,650 square foot class "A+" suburban office building constructed in 2008. This property is a single tenant building located in the new Quarry Park area in Southeast Calgary. The subject property was the first building constructed in Quarry Park and has been assessed using the capitalized income approach.

**Issues:**

- 1) Is the rental rate of \$24 per sq. ft., which has been applied in reaching the assessment of the subject property, a correct market rate and an equitable rate considering lease and assessment data respecting similar properties?
- 2) Should there be any income value assigned to the 237 underground parking stalls in reaching the assessment of the subject property?

Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB) on March 4, 2011. The only issues however, that the parties brought forward in the hearing on June 15, 2011 before the Composite Assessment Review Board (CARB) are those 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 the Complainant's requested rental rate adjustment to \$23 per sq. ft and removing the income attributed to parking, results in the requested assessment for the subject property of \$87,720,000.

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

- 1) The CARB decision is to confirm the rental rate of \$24 per sq. ft. as being both correct and equitable.
- 2) The CARB decision respecting the parking income is to confirm that the attribution of the current rate of \$1080 for the 237 underground stalls is typical and appropriate in this

case.

### **Summary of the Party's Positions**

The Complainant brought forward a second quarter Calgary Office Market Report by Avison/Young that indicates that as result of new inventory vacancy rates will remain high and asking rental rates have steadily decreased. Class A on average is now asking \$20 per sq. ft. with asking rates for new construction remaining at around \$22 per sq. ft. The complainant argued that especially during a period of decreasing markets any analysis of typical rental rates should be based on the date negotiations are complete and the deal on the rental rate is struck ("deal done date") rather than the date the lease actually commences. Rates negotiated during the valuation year will be a truer reflection of the market than rates negotiated prior to the valuation year when all the relevant market forces may not be evident. The Complainant referenced various valuation authorities and CARB decisions in support of this approach. It was argued that the Respondent uses the lease commencement date which will tend to overstate lease rates during a falling market. Despite this the Respondent has recognized that some office lease rates have decreased by as much as \$3 per sq. ft. as shown in their assessments of some south Calgary office space. The Complainant submitted three equity comparables showing that two class "A+" office buildings in Lincoln Park had been assessed at a rental rate of \$25 per sq. ft. in 2010 but have been reduced to a rate of \$22 per sq. ft. in 2011. The other comparable was a class "A+" building located at 6700 Macleod Trail which had been assessed using rates from \$22 to \$25 per sq. ft. in 2010 but again the rate used in the 2011 assessment had been reduced to \$22 per sq. ft. The subject rate however, has not been adjusted downward from the \$24 rate determined by the CARB for 2010.

The Complainant requested that a rental rate of \$23 per sq. ft. should be applied in reaching the 2011 assessment for the subject. In support of this request the Complainant brought forward three comparable class "A" suburban office leases that had been negotiated during the valuation year ending July 1, 2010. The first lease comparable was for a property located at 160 Quarry Park Boulevard S.E. This lease rate is \$23.95 and was negotiated July 2, 2009 but did not commence until November 1, 2009. It should be noted that both parties used this lease in support of their respective positions. The other two lease comparables were located in Lincoln Park in Southeast Calgary. One for 16,856 sq. ft. at a rate of \$22 per sq. ft. negotiated March 22, 2010 commencing March 1, 2010 and the other for 2,941 sq. ft. also at a rate of \$22 per sq. ft. negotiated June 18, 2009 and commenced August 1, 2009. The median rate for these three leases is \$22 per sq. ft. and the weighted mean was shown as \$23.22 per sq. ft.

With respect to the parking matter, the Complainant's evidence confirmed that the subject lease provides all parking whether underground or surface parking at no additional cost to the tenant over the fifteen year lease. The Complainant argued that if the underground parking were to be valued at the rate of \$1080 per stall per annum as used by the Respondent and deducted from the office income, the rental rate for the office would be reduced to an actual net rate of \$22.53 per sq. ft. The Complainant acknowledged that some suburban office landlords do not include parking within their office lease and charge varying rates for parking. That however, is not the case with the subject and there is no opportunity under the current lease for the owners of the subject property to recover the parking value of \$1080 per stall assessed by the Respondent. The Complainant therefore requested that the parking income be deleted from the assessment of the subject.

The Respondent argued that the best evidence for lease rate analysis is the rate applied at the time the lease commences as this information is available and consistent. The negotiated lease date or "deal done" date is not reported and would be difficult to obtain on a consistent basis. The Respondent indicated that Quarry Park is new and has sufficient leasing and sales activity for the Assessor to determine the correct lease rates from within Quarry Park. The Respondent provided a table showing six equity comparables of class "A+" buildings in Quarry Park built between 2008 and 2010 all having been assessed using a \$24 per sq. ft. rate for office space and a rate of \$1080 per underground stalls. The subject and also the party's common comparable at 160 Quarry Park Boulevard were both included in this table. The Respondent also introduced four lease comparables for "A+" office buildings in Quarry Park showing leases commencing within the valuation year ranged from a low of \$23.95 per sq. ft. to a high of \$25 per sq. ft. The Respondent reported the median of these lease rates to be \$25.10 per sq. ft. and the weighted mean to be \$24.50 per sq. ft. The Respondent argued that this information supports the \$24 rental rate which has been applied in an equitable manner to the subject and all other Quarry Park class "A+" buildings.

The Respondent also introduced three Quarry Park Office Property sales to show that sales in Quarry Park have consistently been well above the assessed values and therefore the assessments of the subject and other Quarry Park properties are below their market values.

With respect to the parking matter the Respondent introduced their 2011 City of Calgary Citywide Suburban Office Parking Study to show the source data used to determine the parking rate of \$1080 per stall. Five Quarry Park properties were included in this study; however the Respondent indicated that this number of data points would be insufficient to develop a separate parking rate for Quarry Park Office properties. This study showed average monthly parking rates to be \$94. The Respondent adopted a monthly rate of \$90 per month or \$1080 per annum as the assessment value to be placed on suburban office underground parking stalls for 2011.

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

#### **Rental Rate**

The subject property is located in a new suburban office park and from the evidence before the CARB, Quarry Park Properties appear to achieve rental rates somewhat above the norm for other south Calgary suburban offices in general. For this reason and because there is a lack of compelling evidence to refine the rates reported by Avison/Young, this report was not found to be very helpful in addressing the issues before the Board. The CARB accepts the notion that current agreements respecting lease rates and terms are the best reflection of the market at the time of the agreements, however the evidence in this case in our view, provided a very weak demonstration of any significant difference in using "deal done" date data vs. lease commencement date data. In the leases brought forward by the complainant the lapsed time between the finalization of agreements on lease terms and the start date of the leases ranged from -21 days to approximately four months. Where a lease is negotiated a year or more ahead of the commencement date when the market is changing rapidly and without predictability there

may be a need for adjustment. However, in this case, the Complainant did not provide evidence which convinced the CARB that "deal done dates" are available in a sufficiently accurate and consistent manner to satisfy this requirement of the mass appraisal process.

With regard to the subject case, the evidence is insufficient to demonstrate that current lease activity within Quarry Park shows any significant reductions from leases finalized slightly earlier. The best comparable in the opinion of the CARB is the lease of 32,736 sq. ft. of office space within the building located at 160 Quarry Boulevard at a rate of \$23.95 per sq. ft. This lease comparable is used by both parties and it fully supports the rate of \$24 per sq. ft. assigned to the subject. While we do not have definitive information with respect to the timing of negotiations for the other three leases provided by the Respondent, these leases commence mid way through the valuation year with rates of \$24.25 and \$25.95 per sq. ft. Without evidence to the contrary the CARB accepts that these leases also support the rate applied to the subject of \$24.00 per sq. ft.

With regard to the two additional Lincoln Park lease comparables brought forward by the Complainant at \$22 per sq. ft., the CARB has not accorded great weight to these for two reasons. First while we acknowledge that ARB 0506-2010 combined Quarry Park lease data with Lincoln Park lease data, in that case the evidence only showed a minimal average difference of some .60 cents in rental rates achieved in these two office parks at that time. The evidence before this Board shows current leasing differentials between these office parks of as much as \$3.95 per sq. ft.. Based on this evidence the CARB is not convinced that there is direct comparability between "A+" properties in Lincoln Park and those in Quarry Park. In the final analysis, however even if the CARB accepted the two Lincoln Park leases as being comparable, two lease rates in a different area of the city are not conclusive and such evidence is not compelling given the much better comparable showing a recent lease rate of \$23.95 per sq. ft. at 160 Quarry Park which supports the subject rate of \$24 per sq. ft. This comparable along with the other Quarry Park lease evidence has convinced the CARB that the lease rate of \$24 per sq. ft. is both correct and equitable.

### **Parking Rate**

The Complainant argued that in that the subject lease provides all parking including the 237 stalls of underground parking at no charge to the tenant, there should be no parking income included in the assessment for the subject. The CARB is required by the Matters Relating to Assessment and Taxation Regulation section 2 (b) that the assessment of property based on market value "*must be an estimate of the value of the fee simple estate in the property*". Where a tenant has entered into a lease agreement which, at some point results in terms more favourable than are typical in the current market place, then in that case the tenant may be said to have acquired an interest in the fee simple estate. In this case the fact that the owner has not included a parking charge for the 237 underground stalls and therefore may not be able to recover the parking income attributed to these stalls is not a matter that the CARB can resolve. Based on the Respondent's parking study it appears that in the typical suburban office market place an allocation for underground parking income is appropriate. While the Complainant did not dispute the Respondent's study with respect to this general market condition or provide evidence that challenged the rate of \$1080 per stall as determined by the Respondent, the CARB believes that it may be appropriate to consider the quantum of the parking income allocation based on the data within Quarry Park only. The Respondent has decided that Quarry Park is sufficiently different and has sufficient data to establish rental rates independent of other

south Calgary office space and the Board believes that it may be appropriate to deal with parking income in the same way. Based on the Quarry Park parking data it appears that the weighted average parking charge is just under \$50 per month or \$600 per stall per annum. Such a change would have minimal affect on the overall assessment in this case and therefore no change has been made. This approach may be a future consideration and would seem to be more consistent with the treatment of office rental income for properties in Quarry Park.

The CARB has decided, for the reasons above, not to change the current allocation of \$1080 per stall for the subject's underground parking.

### Summary

The CARB carefully considered all of the evidence and arguments advanced by the parties and concluded that the rental rate of \$24 per sq. ft. for office space and the allocation of \$1080 per stall for underground parking should not be altered. The Board therefore confirms the 2011 assessment for the subject property of \$95,070,000.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF July 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*