

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Westfield Kensington Ltd. c/o Marwest Management Canada Ltd.
(as represented by Fairtax Realty Advocates Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
R. Cochrane, MEMBER
E. Reuther, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

| ROLL NUMBER | BUILDING NAME | LOCATION ADDRESS | HEARING NUMBER | ASSESSMENT |
|------------------------|--------------------------|-----------------------------|---------------------------|-------------------|
| 059153494 | Campana Place | 609 14 ST NW | 66497 | \$9,830,000 |
| 059154203 | Robertson College | 417 14 ST NW | 66343 | \$2,860,000 |
| 059155606 | Hillhurst Building | 301 14 ST NW | 66508 | \$9,860,000 |

These complaints were heard on the 3rd day of July, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- Mr. S. Storey Agent, Fairtax Realty Advocates Inc.
- Mr. B. Boccaccio Agent, Fairtax Realty Advocates Inc.

Appeared on behalf of the Respondent:

- Mr. H. Yau**

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

[1] At the commencement of the hearing, the parties' submitted that the evidence and argument pertaining to file **#66497** was similar for three complaints that were scheduled that day before the Board: **files #66497, #66343 and #66508**. It is noted that these properties are located in close proximity to one another. As such, the parties requested that the evidence and argument be carried forward from file **#66497** to the remaining two files. The Board agreed to carry forward the evidence and argument and allowed the parties an opportunity to address the individual properties that were under complaint.

[2] The Board notes that it is the same property owner for all three properties under complaint and therefore has issued one Board Order for the three properties.

[3] It is noted that the Complainant's request to change the classification of the subject properties from B class to C class suburban offices pertains to all three complaints. The Complainant requested the current assessed office rate of \$14.00 psf should be reduced to \$11.00 psf and the capitalization rate of 7.75% should be increased to 8.25% for all three properties. The Complainant submitted the change in classification will increase the office vacancy rate from 4.5% to 10%, and the retail vacancy from 4.5% to 5% for typical class C suburban offices (which will directly impact the Campana and Hillhurst property assessments).

Property Descriptions:

Campana Place:

[4] This property is a suburban office, commonly known as Campana Place, in Hillhurst. The improvement is 49,523 sq. ft. and is situated on 0.43 acres of land. There is a mix of office and retail space within the subject building: 48,080 sq. ft. of office, 1,443 sq. ft. of retail. It was built in 1981, and has been assessed as a Quality B. The land use designation is Commercial Corridor 2. There are 108 enclosed parking stalls associated with this property.

[5] There is an exemption of \$874,500 which is on a separate sub account and is not under complaint.

Robertson College:

[6] This property is a suburban office, commonly known as Robertson College, in Hillhurst. The improvement is 17,517 sq. ft. and is situated on 0.21 acres of land. It was built in 1978, and

has been assessed as a Quality B. The land use designation is Commercial Corridor 2.

Hillhurst Building:

[7] This property is a suburban office, commonly known as the Hillhurst Building, located in Hillhurst. The improvement is 62,882 sq. ft. and is situated on 0.85 acres of land. There is a mix of office and retail space within the building: 58,951 sq. ft. of office, 3,631 sq. ft. of retail. There is also a nominal amount of storage area of 300 sq. ft. It was built in 1969, and has been assessed as a Quality B. There are 89 enclosed parking stalls. The land use designation is Commercial Corridor 2.

[8] There is an exemption of \$2,561,500 on a separate sub account and is not under complaint.

Issue:

[9] The subject properties should be classified as Class C suburban offices, not Class B.

Complainant's Requested Values:

[10] The Complainant is requesting values for the three properties as follows:

| ROLL NUMBER | BUILDING NAME | LOCATION ADDRESS | HEARING NUMBER | ASSESSMENT | REQUESTED ASSESSMENT |
|-------------|--------------------|------------------|----------------|-------------|----------------------|
| 059153494 | Campana Place | 609 14 ST NW | 66497 | \$9,830,000 | \$7,639,800 |
| 059154203 | Robertson College | 417 14 ST NW | 66343 | \$2,860,000 | \$1,794,590 |
| 059155606 | Hillhurst Building | 301 14 ST NW | 66508 | \$9,860,000 | \$7,918,500 |

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

Complainant's Position:

[11] The Complainant submitted there is an error in the current classification of the subject properties. Based on their age, condition, configuration and location, the subject properties should be changed to reflect that they are Class C suburban offices, not class B. That change in classification will require an adjustment to the market rents, vacancy rates and capitalization rate used to derive the subject properties' assessments.

[12] The Complainant submitted the City of Calgary's Assessment Department determines classification based on market rents: \$10.00 psf for Class C suburban offices and \$14.00 psf for class B suburban offices. He submitted the subject properties are not generating \$14.00 psf rents yet they are classified as Class B suburban offices.

Campana Place:

[13] The Complainant submitted the rent roll for Campana Place (Exhibit C1 page 9). He

argued that recent leasing activity within that building indicates lease rates of \$11.00 psf and \$12.00 psf, not \$14.00 psf as suggested by the Respondent. He cautioned the Board in relying on leases commencing before 2007, prior to the economic downturn. The Complainant submitted this lease rate of \$11.00 and \$12.00 psf is further supported by the Third Party Reports in the Second Quarter (Q2) of 2011 which indicate that class C suburban offices are generating those types of rents.

[14] Moreover the Complainant submitted 24 lease rates for Class B and C buildings that had commenced on July 1, 2010 to July 1, 2011 (Exhibit C1 page 10). The areas are 610 – 5,296 sq. ft. and the rates are \$9.00 - \$18.01 psf. Based on those lease rates, the Complainant suggested the average lease area is 2,008 sq. ft. and is achieving an average of \$12.18 psf; the median area is 1,587 sq. ft. and is achieving a median of \$12.00 psf.

Robertson College:

[15] The Complainant submitted Robertson College is the sole tenant and leases the entire building. Its lease had commenced on November 1, 2006 for \$21.26 psf (Exhibit C1 pages 33 & 34). He submitted that the landlord participated in converting the office area into classrooms and therefore the lease rate recognizes the contribution made by the Landlord. That rate includes recovery of the tenant improvements. Given the tenant inducements, the subject property does not have a typical lease, and therefore little weight should be afforded to the subject lease. Moreover, the Complainant doubts when the lease expires, that another college will lease the premises. The Complainant submitted that the typical office lease rate of \$11.00 psf should be applied.

Hillhurst Building:

[16] The Complainant submitted the most recent leasing activity in the Hillhurst Building also suggests an \$11.00 psf rate (Exhibit C1 page 9). He noted the most recent lease was signed on July 1, 2011, the valuation date, for 2,476 sq. ft. at a rate of \$10.00 psf.

Respondent's Position:

[17] The Respondent submitted the subject properties have been correctly assessed as Class B suburban offices and reviewed the list of criteria for quality classification (Exhibit R1 page 61). He noted the income generated by the three properties exceed the assessed office rate of \$14.00 psf: Campana Place is achieving a median of \$17.00 psf; Robertson College has a long term lease which started at \$21.60 psf (Exhibit R1 page 122); Hillhurst Building is achieving a median of \$14.15 psf and a mean of \$15.64 (Exhibit R1 pages 65 & 67). The Respondent also noted only 89 parking stalls were assessed for the Hillhurst property yet the owner had reported 107 parking stalls (Exhibit R1 page 69).

[18] The Respondent also argued that the subject properties have been equitably assessed with other Class B and C suburban offices with a 7.75% capitalization rate (Exhibit R1 page 63). He noted that no analysis was presented by the Complainant in regards to capitalization rates and/or vacancy rates other than the Third Party Reports.

[19] The Respondent argued that this issue of classification was raised in last year's complaint for the Hillhurst property (CARB 1979/2011-P) and the Board was not persuaded that a change in the classification should occur (Exhibit R1 pages 139 – 144).

[20] The Respondent argued that there was insufficient evidence to change the classification.

Board Findings:

[21] The Board finds the Complainant did not provide sufficient evidence to change the current classification of the subject properties. The Complainant provided little explanation in regards to the factors he cited to support a change in the classification (e.g. condition including surrounding influences, configuration and location of the subject properties).

[22] Furthermore, the Board notes the rent rolls submitted on the three properties show that they are exceeding the assessed office rate of \$14.00 psf. The Campana has a mean rate of \$17.43 psf and a median of \$17.01; Robertson College has a 15 year lease that had commenced in at \$21.26 (and includes step ups to \$26.00 psf); and Hillhurst Building is achieving a mean rate of \$15.64 psf and a median of \$14.15 psf. The Board also notes the assessed office rates at \$14.00 psf fall slightly below the \$15.00 psf rate suggested by the Third Party Market reports for the Q2 2011 as provided by the Complainant.

[23] The Board noted the Complainant's closing arguments in which he accepted the 7.75% capitalization rate applied to the subject properties but not the market rent or vacancy.

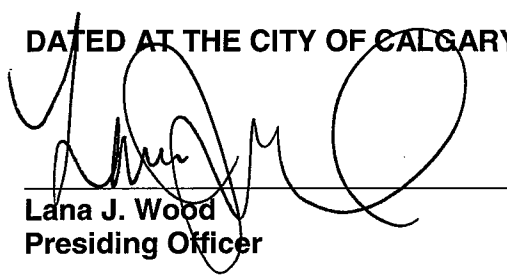
[24] However, the Board finds there was insufficient evidence to bring the classification into question which results in no change to the income parameters used to assess these buildings as Class B suburban offices.

Board's Decision:

[25] The decision of the Board is to confirm the 2012 assessments for the properties as follows:

| ROLL NUMBER | BUILDING NAME | LOCATION ADDRESS | HEARING NUMBER | ASSESSMENT | BOARD DECISION |
|-------------|--------------------|------------------|----------------|-------------|----------------|
| 059153494 | Campana Place | 609 14 ST NW | 66497 | \$9,830,000 | Confirmed |
| 059154203 | Robertson College | 417 14 ST NW | 66343 | \$2,860,000 | Confirmed |
| 059155606 | Hillhurst Building | 301 14 ST NW | 66508 | \$9,860,000 | Confirmed |

DATED AT THE CITY OF CALGARY THIS 16th DAY OF AUGUST 2012.



Lana J. Wood
Presiding Officer

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

| NO. | ITEM |
|------------|------------------------|
| 1. C1 | Complainant's Evidence |
| 2. R1 | Respondent's Evidence |

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.*

FOR ADMINISTRATIVE USE

| Subject | Property Type | Property Sub -Type | Issue | Sub - Issue |
|---------|---------------|--------------------|-----------------|---|
| CARB | Office | Low Rise | Income Approach | Net Market Rent/ Lease Rate; Capitalization Rate; Expenses (Maintenance/Non Recoverables/Management) |