

**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:

Westfield Centre 15 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

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:	068202092
LOCATION ADDRESS:	1509 CENTRE ST SW
HEARING NUMBER:	66484
ASSESSMENT:	\$9,700,000

Appeared on behalf of the Complainant:

- Appeared on behalf of the Respondent:

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

Property Description:

[4] The Complainant withdrew the vacancy issue during his submission.

[5] The issues were identified as follows:

- Complainant's Requested Value:**

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

- [7] The Complainant submitted there is only one elevator in the building. This contributed to the chronic vacancy experienced on the upper floors. The Complainant also noted there is only

one common washroom available on the 6th floor. The owners leased the 6th floor to themselves at \$16.50 psf for 5,296 sq. ft. in a non-arms length lease in April 2010 (Exhibit C1 page 7). The Complainant stated the \$16.50 psf rate included the cost to develop it.

[8] The Complainant provided a detailed rent roll for the subject property and suggested that the most recent leasing activity suggests a market rate \$12.00 psf for office space (Exhibit C1 pages 28 – 35). The Complainant drew the Board's attention to a modified lease (renewal) for one of the tenants within the building in 2011. That lease (5,154 sq. ft.) indicates a rental rate of \$11.00 psf with 4 months of free rent on the remaining term (Exhibit C1 page 32). The Complainant also drew the Board's attention to another lease (2,574 sq. ft.) within the subject property in 2011. He noted a lease expansion on March 1, 2011 for \$10.00 psf and 5 months of free rent (Exhibit C1 page 34). The Complainant argued the \$12.00 psf rate is an accurate reflection of the market rental rate based on these lease renewals within the subject property.

[9] The Respondent submitted the City of Calgary's 2012 Beltline Office B Class Rent Study in support of the assessed rate of \$13.00 psf (Exhibit R1 pages 30 and 31). This study was based on 70 leases for office areas of 684 – 42,631 sq. ft. which had commenced on July 1, 2010 – July 1, 2011. It included two of leases from the subject property at \$11.00 psf. The leased rates ranged between \$8.50 - \$22.00 psf for a mean of \$13.25 psf; median of \$13.00 psf; and a weighted mean of \$12.59 psf. The Respondent applied an assessed rate of \$13.00 psf whereas the rent roll for the subject property indicates a mean of \$16.90 psf; a median of \$16.50 psf and a weighted mean of \$18.45 psf (Exhibit R1 page 32).

[10] The Respondent also provided the subject property's Assessment Request for Information dated May 16, 2011 (Exhibit R1 pages 61 – 76). It included a one page Narrative Appraisal which indicated that the market value for the leased fee interest for the subject property at September 30, 2010 is \$16,700,000 (Exhibit R1 page 62). It also includes information pertaining to the lease renewals in the subject property (Exhibit R1 pages 68 & 69).

[11] The Board finds there was insufficient evidence to suggest a reduction in the assessed rental rate from \$13.00 to \$12.00 psf. The market evidence before the Board supports an assessed rate of \$13.00 psf for this type of space. Moreover the Board notes the subject property itself is achieving lease rates higher than typical at \$16.50 psf.

(b) The assessed capitalization rate should be changed from 7.75% to 8.0%.

[12] The Complainant submitted that Colliers reported a range in capitalization rates for downtown B class office buildings. In the second quarter, 2011, the capitalization rates were 7.25% - 8.25% (Exhibit C1 page 14). This was the basis for the Complainant's request of an 8.0% capitalization rate for the subject property.

[13] The Respondent submitted the sale of a Beltline flex office building located at 1111 11 AV SW for the City of Calgary's 2012 Beltline Capitalization Rate Study (Exhibit R1 pages 35 – 43). It sold in April 2011 for \$9,300,000. Based on a typical NOI of \$707,543, the Respondent derived a capitalization rate of 7.61%. This formed the basis for the 7.75% capitalization rate applied to downtown class B office buildings.

[14] The Board finds the Complainant submitted little evidence to bring the capitalization rate into question, and what he did provide supported the use of a 7.75% capitalization rate for class B downtown office buildings (see chart under the heading "Fairtax Composite," 7.75%)(Exhibit

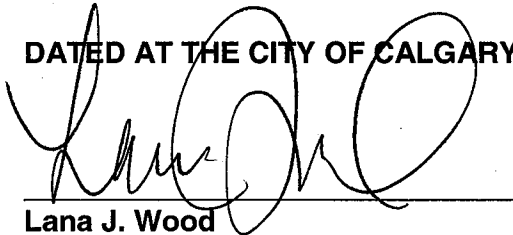
C1 page 14). As such, the Board finds there was insufficient evidence provided to bring the capitalization rate into question.

[15] As an aside, the Board noted the Complainant's concern of the Respondent's sale of 1111 11 AV SW which, in the RealNet documents, under "Price Structure", it reported an 18% interest rate applied to the principal amount of \$6,000,000 (Exhibit R1 pages 36 & 37). The Respondent argued an 18% interest rate is common for this type of property. The Board finds that statement incredulous, and notes an error was reported in the interest rate: it should have been 1.8%, not 18%.

Board's Decision:

[16] The decision of the Board is to confirm the 2012 assessment for the subject property at \$9,700,000.

DATED AT THE CITY OF CALGARY THIS 6th DAY OF Sept 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	Stand Alone	Income Approach	Net Market Rent/ Lease Rates Capitalization Rate