

**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 Heritage Square 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:	123189292
LOCATION ADDRESS:	8500 MACLEOD TR SE
HEARING NUMBER:	66505
ASSESSMENT:	\$81,160,000

Appeared on behalf of the Complainant:

- Appeared on behalf of the Respondent:

- Mr. H. Yau Assessor, City of Calgary

[1] There were no procedural or jurisdictional matters raised by the parties during the hearing.

[2] The subject property is a five storey suburban office, commonly known as Heritage Square, located in Acadia. It is comprised of 317,908 sq. ft. and is situated on 4.54 acres. The land use designation is Commercial Corridor 3. The building was constructed in 1979, and has been assessed as A- quality. There are 568 parking stalls. The amenities in this building include a large atrium, several small retail areas, a restaurant and a health club.

[3] The subject property has been assessed based on the Income Approach to value: there is 308,191 sq. ft. of Southwest Office Space assessed at \$19.00 psf; 5,945 sq. ft. of Recreational Space assessed at \$8.00 psf; 3,772 sq. ft. of Office Space Below Grade assessed at \$8.00 psf and 568 enclosed parking stalls assessed at \$1,080.00/stall. The income parameters include an 8.0% vacancy rate and a 7.0% capitalization rate. The assessed rate of \$19.00 psf applied to the Southwest Office Space is in dispute based on the building's current classification (also in dispute) as well as the 7.0% capitalization rate. The Complainant accepted the remaining income parameters applied to the subject property's assessment.

[4] The issues were identified as follows:

- (a) The subject property should be classified as B+ as opposed to A-.
- (b) The capitalization rate for the subject property should be changed from 7.0% to 7.25%.

[5] The Complainant requested a revised assessment of \$70,759,209 for the subject property.

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

- (a) The subject property should be classified as B+ as opposed to A-.

[6] The Complainant submitted a Commercial Building Classification Report for the subject property prepared by Wernick Omura Real Estate Advisory Services dated October 18, 2011 (Exhibit C1 pages 21 – 30). It referred to how BOMA, Avison Young and Colliers classify buildings. The findings of that Report indicate the subject property falls between a Class A and Class B quality rating. Although the description of the subject property supports a Class A quality rating, the overall tenancy mix supports a lower classification.

[7] Further findings in the Report indicate the average market rental rate for Southwest and Southeast suburban office space is \$15.00 - \$20.00 psf (net effective rent). The subject property is generating rates on the lower end of that range at \$14.00 - \$16.00 psf. For a Class A building, it should be at the higher end of the range.

[8] The two largest tenancies, AMEC, which leases 199,672 sq. ft., and the Credit Union, which leases 90,053 sq. ft., are considered Class A tenants. The lease with AMEC is about to expire on August 31, 2013 and no commitments have been made to renew this lease. The large areas under lease are atypical for suburban office space which is generally 4,000 – 35,000 sq. ft. and therefore makes it difficult to draw comparisons. That Report also makes reference to several smaller tenancies within the subject property that are not considered Class A tenancies; specifically, the International School of Ballet, D'Angelo Portrait Studio; Fleetwood Whole Sale Jewelry; Fit Rite Alterations and Frugal Gourmet. The retail tenancies within the subject building are considered Class A tenancies: Starbucks, Martinizing Drycleaners and People's Jewelry (Exhibit C1 page 33).

[9] The Complainant submitted the rent roll for the subject property (Exhibit C1 pages 8 – 19). He indicated the two major tenants lease 91% of the gross leasable space. He submitted the average net effective lease rate is \$15.98 psf and set out the Net Effective Rent Calculations for the subject property based on the lease rates of the two major tenants (Exhibit C1 page 31). The Complainant further noted the only new lease signed in 2011 was Jeunesse Classique Ballet Society: a 1.247 sq. ft. space at \$10.00 psf for the first 5 year term; \$11.00 psf for the second 5 year term (Exhibit C1 page 20). No leases were signed in 2010.

[10] The Respondent submitted the subject property's classification is supported by Altus Insite and Artis REIT which recognize this building as class A suburban office (Exhibit R1 pages 35 – 37). The Respondent also included the Complainant's Statement of Issues dated July 9, 2011 in which the Complainant referred to the subject property as a Class A suburban office (Exhibit R1 page 34). The Respondent reviewed the criteria in determining the classification (Physical & Economic Characteristics/ Quality Classification) (Exhibit R1 pages 38 & 39). He indicated classification is largely driven by the income the subject property is able to achieve (Exhibit R1 page 38). The Respondent submitted the Assessment Request for Information ("ARFI") for the subject property. The lease rates indicate a median of \$19.00 psf; a mean of \$18.97 and a weighted mean of \$21.05 psf (Exhibit R1 page 43). It was assessed at \$19.00 psf. He also noted the actual vacancy within the subject building is 2.36% whereas it was assessed at 8.0%.

[11] The Respondent argued the subject property has been fairly and equitably assessed with similar Class A- suburban offices. He submitted all A- and A2 suburban offices have been assessed at \$19.00 psf and Class B have been assessed at \$13.00 psf (Exhibit R1 page 40).

[12] The Board finds there was insufficient evidence to warrant a change in the current classification for the subject property. The Board considered the brochures from Altus Insite and Artis REIT which provided some insight to how the subject property is viewed in the marketplace. This is further supported by the current leases within the subject property which indicate a median of \$19.00 psf. Third Party Reports provided by the Complainant also indicate Class A Suburban South in Q2 2011 are achieving \$19.00 psf and Class B are achieving \$15.00 psf. The Board notes the Report provided by the Complainant established a range of classification for the subject property, between an A and B class, which, arguably, supports the current classification (A-) for the subject property.

[13] It is unclear to the Board how the Complainant derived \$17.00 psf as the basis for his request given his argument of a net effective rent of \$15.98 psf. In addition, the Board was not persuaded that a lower lease rate is warranted on the basis that Amec has not indicated if it will renew its lease which is set to expire on August 31, 2013. The Complainant testified that Amec has 6 months prior to the expiry of that lease to make its intentions known; therefore any speculation at this point, for the purposes of this hearing, is premature.

[14] As such, there was insufficient evidence presented to bring the current classification or the assessed rental rate for Southwest Office Space into question.

(b) The capitalization rate for the subject property should be changed from 7.0% to 7.25%.

[15] The Complainant submitted there are extraordinary common area operating costs associated with the subject property, in part, due to the heating costs associated with the large atrium (Exhibit C1 pages 32 & 33). He also noted the potential vacancy of Amec in August 2013 of approximately 200,000 sq. ft. will also affect the capitalization rate. The Complainant's request of 7.25% was based on Third Party reports, particularly Colliers in Q2 2011 (Exhibit C1 page 3). Colliers had reported a low of 6.25% and a high of 7.00 % for Class A suburban office in Q2 2011 (which Fairtax averaged to be 6.63%). Colliers had reported a low of 7.25% and a high of 8.0% for Class B suburban office in Q2 2011 (which Fairtax averaged to be 7.63%). The Complainant derived a capitalization rate of 7.13%, which formed the basis of his request of 7.25%, based on a further average of both Class A and B suburban offices (6.63% + 7.63%).

[16] The Respondent submitted the 2012 City of Calgary Suburban Office Capitalization Rate Study (Exhibit R1 page 46). It was based on 8 sales of class A and B suburban offices that occurred in August 2010 – March 2011 (Exhibit R1 pages 47 - 69). Based on that study, the median capitalization rate is 6.91% for Class A suburban offices, and the Respondent applied 7.0%. The Respondent submitted this was the same capitalization rate applied to all A- and A2 suburban offices (Exhibit R1 page 40). He noted Class B suburban offices were assessed with a 7.75% capitalization rate.

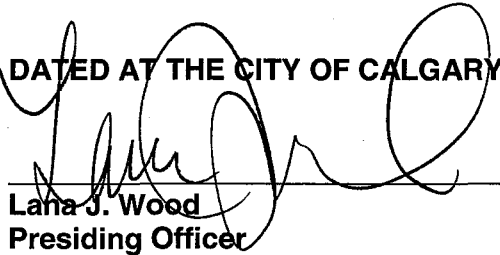
[17] The Board finds the Complainant's methodology in deriving a capitalization rate severely flawed and not recognized in appraisal theory; therefore the Board placed little weight on that

evidence. As such, there was insufficient evidence presented to bring the assessed capitalization rate into question.

Board's Decision:

[18] The decision of the Board is to confirm the 2012 assessment for the subject property at \$81,160,000.

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