

**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:

Continental Saxon Holdings 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:	067221697
LOCATION ADDRESS:	1167 Kensington Cr. NW
HEARING NUMBER:	63480
ASSESSMENT:	\$14,250,000

This complaint was heard on the 17th 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

Appeared on behalf of the Respondent:

- M. Lau, Assessor, *The City of Calgary*

Property Description:

The subject is located at 1167 Kensington Cr. NW, Calgary. It is a 5+ storey Class "B" suburban office constructed in 1981 having 130 enclosed parking stalls, 70,029 sf. of office space assessed at an annual lease rate of \$14 per sf., and 7386 sf of retail space at an annual rate of \$18. The assessed value is \$14,250,000.

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 assessment does not reflect the physical condition of unfinished space, the rental rate should be no more than \$12, and the vacancy and credit allowances should be no less than 8%. After some discussion between the parties as to whether the rate applied to parking and a change to the size of the retail space were issues properly identified on the complaint form, the Composite Assessment Review Board (CARB) heard evidence and argument on the following issues:

1. Should the annual lease rate for the office space be reduced from \$14 to \$12?
2. Should the vacancy allowance be increased from 5.5% to 9.5%?

By making changes to the annual lease rate and the vacancy allowance, the Complainant urged the Composite Assessment Review Board (CARB) to reduce the assessment to \$11,600,000.

Issue 1: Lease rate

The Complainant presented 15 leases from B quality NW buildings, dated from Dec.1, 2009 to Sept. 1, 2010. Six leases came from each of 301 and 609 14 St. NW, the Hillhurst and Campana Building respectively, and one from the subject. The total area of the 15 leases was 25,899 sf. and produced an average rental rate of \$12.30, a median of \$12 and a weighted average of \$11.87 per sf.

The Respondent presented 14 leases from the NW with commencement dates from July 1, 2009-2010, including 9 used by the Complainant. There were an additional 5 leases drawn from 609 and 301 14 St NW, four dating from the July-October span and a January lease for 956 sf at \$18. While the Complainant had looked at nothing prior to December, this more complete

picture justified the \$14 rate as the weighted average rent was \$14.89 and the median \$14.

Issue 2: Vacancy

The Complainant produced a NW vacancy study, the same 31 buildings as had been used by the City the previous year in their vacancy study. The conclusion was a 9.57% vacancy for "B" offices and 8.78% vacancy if one included 5 B or B+ medical buildings in the mix.

The Respondent took the Complainant's 31 NW buildings, compared the ARFI vacancy data with what Altus presented, did further checking and showed vacant areas by building as of July 1, 2010. Their were revisions to vacant space, up and down, where called for as well as the results for an additional 25 buildings in the quadrant, all of B,B-,or B+ quality. The result was a mean vacancy rate of 5.9%.

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

The Complainant tried to show a declining lease rate in the market as the year progressed, and indeed, if one confined the study period to the Dec '09 – July '10 period, the conclusion is lower than the July-July numbers. Most of the leases come from 2 properties on 14 Street, and they display a wide range of rates, from \$11 to \$19. As illustration, 2 very similar spaces, 845 and 800 sf from the same lowrise building rented in March and July, 2010 for \$12 and \$15. A slightly larger 956 sf area commanded \$18 in the other building in January, 2010. The CARB is not convinced that the \$12 rate advocated by the Complainant is a representative market rate or can be better explained by the influence of a number of leases of less desirable space. As shown above, there are unexplained factors at play that value ostensibly similar spaces at a huge variance. The CARB accepts the \$14 typical lease rate as determined by the Respondent.

The CARB also found the more exhaustive vacancy study conducted by the Respondent showing an average 6% vacancy rate better supports the 5.5% assessment allowance than the 9.5% requested by the Complainant.

Board Decisions on the Issues:

The Board confirms the assessment of \$14,250,000.

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

for D. Jubice
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.*