

**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:

LAVALIN L.P. Investment Corp. (as represented by ALTUS GROUP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Glenn, PRESIDING OFFICER

B. Jerchel, MEMBER

B. Bickford, 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:	067042408
LOCATION ADDRESS:	911-5th AVE SW
HEARING NUMBER:	66910
ASSESSMENT:	\$ 14,440,000

This complaint was heard on Monday, the 9th day of July, 2012 at the offices of the Assessment Review Board located on the fourth floor at 1212-31Ave NE, Calgary Alberta, in Boardroom 2.

Appeared on behalf of the Complainant:

S. W. Meiklejohn, Agent

Appeared on behalf of the Respondent:

-R. Fegan, Assessor

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

No issues of procedure or jurisdiction were raised at the hearing.

Property Description:

The subject is 10 storey office building built in 1978, with 111,066 SF of office space, 265 SF of retail space, and 48 underground parking stalls, located on the northwestern edge of the downtown core in Calgary, currently assessed at: \$ 14,440,000 or, \$129/SF

Issues:

Whether the amount of the assessment on the subject property is correct, with regard to:

- A. The physical condition and characteristics of the subject building, especially considering the class to which the subject is assigned.
- B. The valuation procedure, that is, the assessment parameters, especially considering the rental rate and capitalization rate used.
- C. The Market Value used in the subject assessment, especially in light of equity and fairness considerations

Complainant's Requested Value:

The Complainant seeks a reduction in the subject assessment to \$ 9,240,000 or, \$86/SF

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

Complainant's Position:

- (1) The Complainant begins their argument by suggesting that there were errors in the assessment parameters relied on. These errors included:
 - A. The rental rate used for office space was \$12/SF but should have been \$10/SF
 - B. The rental rate used for retail space was \$16/SF but should have been \$14/SF
 - C. The vacancy rate used was 14%, but should have been 15%
 - D. The capitalization rate used was 7.5%, but should have been 9%
 - E. The subject building was classified as a Class B-, but should have been a Class C
- (2) The Complainant says that the building characteristics, not income, should determine the building class. In addition, they noted the subject property is near the end of a 15 year lease. They state that the Respondent has not considered the location and that the subject is on the border between zones DT1 and DT2. The parking ratio is one stall per 2300 SF of space. The subject has only one office tenant. The only retail is a small cafe.
- (3) The Complainant presents a lot of verbal opinion, but without solid evidence to support those opinions. One example is the Complainant agreeing the building is classified as a Class B-, then arguing the subject is in below-average condition and confirming the subject has not been upgraded in 15 years, all without any documentary or photographic support for this claim.
- (4) The Complainant provides a 2010 rent roll in support of their position, but a question is raised by the Board as to why a 2011 rent roll for buildings in zone DT2 is not provided. The Complainant states that it is not available. The Complainant also provides some rent comparables, however the median rent figure from their list of comparables simply confirms the subject assessment. Their comparison of B- Class buildings in DT1 and DT2 zones also seems to confirm the subject assessment rent figures.
- (5) The Complainant also provides information on C Class buildings in DT1 and DT 2 zones. This information would have confirmed their position if the subject was considered to be a C class building. These documents did not convince the Board that the Complainant's requested rent figures were correct.
- (6) The Complainant provides an Historical Office Vacancy chart for the period of 2007 to 2011, for the Board's consideration. The Board is not convinced this information is sufficient to alter the assessed vacancy rate for the subject. The Complainant goes on to present more than 20 pages of documentation on operating costs and parking, however, neither of these attributes were actually contested by the Complainant..
- (7) The Complainant presented documentation regarding a summary of the capitalization rate for B Class properties for the assessment years 2008 to 2012, citing a lack of sales for the dearth of information. They argue cap rates have increased because risk in the market place has increased dramatically while rental rates have fallen. They then go on to offer their own 2012 "corrected" cap rate chart, as well as other cap rate documents from other sizable Canadian cities which purport to support the Complainant's position.

In the Board's, view the capitalization rate information provided does not warrant a change in the assessed cap rate for the subject property.

- (8) The Complainant provides dated sales information, claiming there had been no significant sales in the downtown area since 2008. They further argued market value could not be higher now than at the peak of the market.
- (9) The Complainants argue "we are still in recovery mode " and "things are starting to improve". They carry on to argue that the most significant parameter when assessing a building of this type is age.
- (10) The Complainant admits under cross examination that there are only 3 buildings in downtown Calgary which have an assessment lower than the subject, and most of the buildings which have the same or a lower assessment are significantly smaller.
- (11) In summary, the Complainant suggests that some of the Respondent's sales are portfolio sales and others are Class A properties, so they are not really comparable to the subject. They go on to argue "our comparables are closest, in other words, they are more similar" to the subject. The Complainant states the market has changed, rent has decreased by 66%, vacancy has increased by 2%, and the cap rate has increased, and they say all these factors should be reflected in the subject assessment.

Respondent's Position:

- (12) The Respondent presents a chart of B- Class rent equity comparables, which confirms the subject's assessed rent. The Respondent also presented a chart of B-Class vacancy equity comparables which demonstrates that the vacancy rate used in the assessment may be a bit high. They carry on with a Downtown Office Capitalization Rate chart as reported by industry, which supports the subject assessment.
- (13) The Respondent suggests that the crux of the matter is really the sale prices of other downtown office buildings. The subject building is assessed for the purposes of market value at \$129/SF, whereas the requested value is \$86. From the Respondent's evidence of similar buildings sold in 2011, the average sale price was \$302/SF, whereas, the average sale price for superior buildings sold in 2011 was \$478/SF.
- (14) On cross examination, the Respondent states that "as a final check regarding assessment, we look at the rental rate...we use rent as a test, but it is not the only determining factor".
- (15) The Respondent summarizes by saying that market value is the main factor, and queries why a building owner would sell such a building for \$86/SF. They agree there has been a decline in the market but they state that it is much less dramatic than the Complainant suggests. The Respondent notes they must rely on a mass appraisal approach, and that they cannot go " sales chasing"

- (16) The Respondent admitted that "some of our sales may be post facto, but they are much closer" to the subject than the Complainant's comparables.

Board's Findings:

- (17) To address each of the assessment parameters suggested by the Complainant to be in error, the Board makes the following findings:
- A. The Complainant has not adequately shown that the rental rate relied on by the Respondent is incorrect, either for the office space, or for the retail space. They presented a 2010 rent roll, but no rent roll for 2011. They also provided some rent comparables, but these supported the current assessment. The Respondent provided rent comparables which were right on point. The Board finds that the Respondent's evidence is stronger in this regard.
 - B. The Complainant has not adequately shown that the vacancy rate relied on by the Respondent is incorrect. They provided an Historical Office Vacancy chart for the period of 2007 to 2011, but this was simply not enough for the Board to find the assessed vacancy rate was inappropriate.
 - C. The Complainant has not adequately shown that the capitalization rate relied on by the Respondent is incorrect. The Complainant presented a summary of cap rates for B Class properties for the assessment years 2008 to 2012, citing a lack of sales for the dearth of information. They argue that because risk in the market place has risen, that cap rates have increased. The Respondent's evidence substantiated the cap rate used, and suggested that while there had been some increased risk, it was not nearly as dramatic as the Complainant had argued. The Complainant's evidence did not justify the requested cap rate.
 - D. The Board received no substantive evidence from the Complainant suggesting that the subject building was not properly classified. They suggested that the subject was in below average condition, and had not been upgraded in 15 years, however, no documentary or photographic evidence of any sort was presented in support.
- (18) Based on all the foregoing, the Board finds the onus required of the Complainant to show that the subject assessment is in error, or that it requires some adjustment to be fair and equitable, has not been met. Accordingly, the subject assessment is confirmed in the amount of \$14,440,000.

DATED AT THE CITY OF CALGARY THIS 15th DAY OF AUGUST, 2012



R. Glenn, Presiding Officer

APPENDIX "A"

**Documents presented at the hearing
and considered by the Board**

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| 1. C1 | Complainant Disclosure |
| 2. C2 | Supplementary Disclosure |
| 3. R1 | Respondents Disclosure. |

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.*

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<i>Decision No.1026-2012-P</i>		<i>Roll No.067042408</i>		
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Office 10 storey	Equity	Building Condition	Market Value
