

**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:

PLACE 9-6 Ltd., (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: 067043794
LOCATION ADDRESS: 940-6th AVE SW
HEARING NUMBER: 66912
ASSESSMENT: \$ 24,250,000

This complaint was heard on Tuesday, the 10th day of July, 2012 at the offices of the Assessment Review Board which are located on the fourth floor at 1212-31Ave NE, in 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 a multi-storey hi-rise office building built in 1981, with 158,012 SF of assessed area and underground parking, located on the northwestern edge of the downtown core in Calgary, currently assessed at: \$ 22,250,000, or, \$140.81/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 \$17,080,000, or, \$108/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 which the Respondent relied on. These errors included:
 - A. The rental rate used for office space was \$12/SF but should have been \$10/SF
 - B. The vacancy rate used was 14%, but should have been 15%
 - C. The capitalization rate used was 7.5%, but should have been 9%
 - D. The building is a Class B, but should be a Class B-
- (2) The Complainant requested that their argument and evidence from a previous file, # 66910 (CARB 1026-2012-P) apply to this matter because their argument (although not the exact numbers) will be very similar. The Board agreed to also consider their previous argument and evidence when considering this matter.
- (3) The Complainant commences by suggesting that building characteristics, not income should determine the building class. Another tenet of their argument is that the subject assessment is almost exactly double what it was the previous year. They feel this substantial increase is simply not warranted..
- (4) They go on to state that the Respondent has not considered the instant location. The subject is on the border between zones DT1 and DT2. The parking ratio is one stall per 1200/ SF of office space, so parking is much better in this building than in nearby comparables.
- (5) The Complainant presents a lot of verbal opinion, but not a lot of solid evidence to support those opinions. They state that "basically, 2012 assessments are in a trough". They reiterate that "risk increases as income goes down and vacancy goes up".
- (6) The Complainant provides a rent roll which provides rent updates through 2012. The Complainant also provides some rent comparables, but the median rent figure from their list of comparables simply confirms the subject assessment. Their comparison of B Class buildings in the DT 1 zone also seems to confirm the subject assessment rent figures.
- (7) The Complainant also provides information on C Class buildings in Zones DT1 and DT 2. These would have confirmed the Complainant's position had the subject been of the same class. These documents did not convince the Board that the Complainant's requested rent figures were correct.
- (8) The Complainant provides a Historical Office Vacancy Chart for the period of 2007 up to 2011, for the Board's consideration. Once again, this information only serves to confirm the subject assessment. The Complainant's Brief goes on to present more than 20 pages of documentation on operating costs and parking, which is not relevant to any of

the argument which they presented.

- (9) They carry on to present documentation regarding a summary of the capitalization rate for B Class properties for the assessment years 2008 up to 2012, citing a lack of sales for the dearth of information which they provided. 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, but do not in the Board's view do so.
- (10) The Complainant provided little sales information, claiming there had been no significant sales since 2008. Accordingly, they say that market value is not a significant factor here. They say that because there isn't much current sales information, one must re-use old information and interpolate.
- (11) The Complainant argues "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.
- (12) The Complainant admits under cross examination that there are only a few 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.

Respondent's Position

- (13) The Respondent presents a chart of B- Class rent equity comparables, which confirms the subject assessment's rent figures. They go on to present a chart of B-Class vacancy equity comparables which demonstrate that the vacancy rate used in the subject 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
- (14) The Respondent goes on to suggest that the crux of the matter is really the sale prices of other office buildings. The subject building is assessed for the purposes of market value at \$140/SF, whereas the requested value is \$108/SF. Of comparable buildings sold in 2011, the average sale price was \$302/SF, whereas, the average sale price for The superior buildings sold in 2011 was \$478/SF.
- (15) 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".

Summary of Parties' Positions

- (16) In summary, the Complainant suggests that some of the Respondent's sales are portfolio sales and so are not really comparable, and in addition, some of the Respondent's comparables are Class A.
- (17) The Complainant goes on to argue "our comparables are closest, in other words, they are more similar" to the subject. They say the market has changed, rent has decreased 66%, vacancy has increased by 2%, and the cap rate has increased, and all these

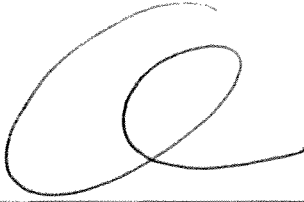
factors should be reflected in the subject assessment.

- (18) The Respondent summarizes by saying that market value is the main factor when preparing an assessment, and queries why a building owner would sell such a building for \$108/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 says they must rely on a mass appraisal approach, and that therefore, they cannot go "sales chasing".
- (19) They carry on arguing that "some of our sales may be post facto, but they are much closer" to the subject' valuation date than the Complainant's comparables.

Board's Position

- (20) To address the question of whether each of the assessment parameters suggested by the Complainant are 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. They argue that the assessment is unfair because it is almost double what it was the year previous. The Complainant provides some rent comparables where the median rent figure simply supports the assessment. Their comparison of B Class buildings in the DT 1 zone also seems to confirm the subject assessment rent figures. The Complainant also provides rent comparables that are not of the same class. The evidence of the Respondent supported the rental rate relied on for the original assessment.
 - B. The Complainant has not adequately shown that the vacancy rate relied on by the Respondent is incorrect. The Complainant provides an Historical Office Vacancy Chart for the period of 2007 up to 2011. This only served to confirm the subject assessment. Evidence called by the Respondent demonstrated that the vacancy rate used for the original assessment was supported. The Complainant's evidence did not demonstrate that the vacancy rate required adjustment.
 - C. The Complainant has not adequately shown that the capitalization rate relied on by the Respondent is incorrect. The Complainant argues that cap rates have increased because risk in the market place has increased, based on rental rates that have fallen, while vacancy rates have increased. The Respondent's evidence demonstrated that the market has changed but not to the dramatic extent that the Complainant claims. The Respondent's evidence showed the cap rate used for the assessment was supportable, and therefore did not require adjustment.
 - D. The Complainant mentioned a change in the Class of the subject, but did not adduce any substantive evidence in that regard, accordingly the Board has no basis to properly consider their request.
- (21) Based on all of the foregoing, the Board finds that 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 herewith confirmed in the amount of \$22,250,000.

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.

For MGB Administrative Use Only

Decision No.1027-2012-P Roll No.067043794				
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Office 5+ storey	Equity	Building Condition	Market Value
