

**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:

STAMPEDE NOMINEE INC. (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:	200971216
LOCATION ADDRESS:	635-6 AVE SW
HEARING NUMBER:	67693
ASSESSMENT:	\$ 29,040,000

This complaint was heard Thursday, the 12th day of July, 2012 at the offices of the Assessment Review Board which are 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 consists of two buildings at the same address and on the same assessment, the first being the Ford Tower, a 20 storey B Class building built in 1976, with 146,780 SF of space, including, a 1432 SF cafe on the main floor and 89 underground parking stalls shared by both buildings which means 1 stall per 2200 SF of space.

The second building is the Alpine Building, a 5 storey C Class structure, built in 1964, but refurbished in the 90's, comprising a total area of 53,289 SF of space with 6192 SF of retail space on the main floor.

The buildings were given a consolidated roll number 5 years ago. No explanation was given as to a reason for the consolidation. Argument stated there is no actual physical connection between the subject buildings.

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 \$20,990,000, or, \$104.91/SF. The actual subject assessment is \$29,040,000, or, \$145.15/SF.

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

Complainant's Position

- 1) The Complainant begins their argument by suggesting that the subject is a hybrid, being both B&C Classes and that there were errors in the assessment parameters which the Respondent relied on. These errors included:
 - i) The rental rate used for office space in a B Class building was \$14/SF but should have been \$12/SF, in a C Class building it was \$11/SF, but should have been \$10/SF.
 - ii) The vacancy rate used for a B Class building was 14%, but should have been 15%. The vacancy rate for a C Class building is properly 15%.
 - iii) The capitalization rate used for both Classes was 7.5%, but should have been at least 8.5%.
- 2) The Complainant requested their argument and evidence from previous files, case numbers: 68210, (CARB# 1025-2012-P), 66910 (CARB# 1026-2012-P), and 66912 (CARB# 1027-2012-P) are to apply to this matter because their argument and evidence (although not the exact numbers) will be very similar. The Board agreed to also consider the Complainant's previous argument and evidence when considering this matter.
- 3) The Complainant suggests that the subject assessment is much higher than last year (an increase of almost 20%).
- 4) They go on to state that the Respondent has not considered the subject location. The subject is on the western edge of the downtown core.
- 5) The Complainant presents a lot of verbal opinion, but not much 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 an August 2010 rent roll in support of their argument. 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 documents did not convince the Board that the Complainant's requested rent figures were correct.
- 8) The Complainant provides an 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 vacancy parameter used to develop the subject assessment. The Complainant's Brief goes on to present more than 25 pages of documentation on operating costs and parking, which is not relevant to any of the argument which they actually 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 provide. They argue cap rates have increased because risk in the market place has increased dramatically and vacancy rates have risen, while rental rates have fallen.
- 10) The Complainant states that B & C Class buildings don't fare nearly as well as A & AA Class buildings, and that cap rates are simply a measure of risk. They suggest the higher the risk, the higher the cap rate should be.
- 11) 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.
- 12) 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 buildings of these types is age.
- 13) 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

- 14) 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 even be a bit high. They carry on with a Downtown Office Capitalization Rate Chart as "reported by industry", which supports the subject assessment.
- 15) The Respondent goes on to suggest 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 \$145.15/SF, whereas the requested value is \$104.91/SF. Of buildings sold in 2011, the average sale price for buildings of similar quality was \$302/SF, whereas, the average sale price for superior buildings sold in 2011 was \$478/SF.
- 16) The Respondent argued that the Complainant provided little sales information, claiming there had been no significant sales since May of 2008. The Complainant says 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".
- 17) The Respondent suggests that their assessment properly reflects all of the market changes which impact the subject, therefore the subject property is properly assessed.
- 18) 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

- 19) In summary, the Complainant suggests that some of the Respondent's sales are portfolio sales, in addition, some of the Respondent's comparables are Class A, and so they are not directly comparable.
- 20) 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 by 66%, vacancy has increased by 2%, and the cap rate has increased because of the increased risk in the market, and all these factors should be reflected in a lower assessment.
- 21) 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 \$104.91/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 Respondents say they must rely on a mass appraisal approach, and that they cannot go "sales chasing".
- 22) The Respondents query which rent rate is more important; the typical rate, or, the actual rate. They state that in many cases the actual income is much higher than the typical, and so, they believe that the assessment is a proper reflection of the market.
- 23) They carry on arguing that "some of our sales may be post facto, but they are much closer" to the valuation date than the Complainant's comparables. The Respondent states that there is no need to have two separate cap rates on the subject property.


Board's Position

- 24) To address the question of whether each of the assessment parameters suggested by the Complainant are in error, the Board makes the following findings:
 - i) The Complainant has not adequately shown that the rental rate relied on by the Respondent is incorrect. They provide an August 2010 rent roll in support of their position. They also provide some rent comparables but these simply confirm the subject assessment. Their comparison of B Class buildings in the DT 1 zone also seems to confirm the subject rent figures. Evidence called by the Respondent showed that the rental rate used in the original assessment was supported.
 - ii) 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 serves to confirm the vacancy parameter used to arrive at the subject assessment. The Respondent's evidence in this regard demonstrated that the vacancy rate relied on was supportable, and not indicative of a change being required.
 - iii) 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 dramatically and vacancy rates have

risen, while rental rates have fallen. The Respondent argued that there had been change in the market, but it was not nearly as dramatic as the Complainant claimed. The Respondent's cap rate evidence supported the original assessment, and the Board found it to be the more substantial of the two positions presented.

- 25) 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 \$29,040,000.

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- |
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| 5. . | |

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.1029-2012-P Roll No.200971216				
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Office 20 storey Office 5 storey	Equity	Building Condition	Market Value