

**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

***Cantos Music Foundation
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before

***L. Yakimchuk, PRESIDING OFFICER
H. Ang, MEMBER
D. Julien, 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: 068114800

LOCATION ADDRESS: 132 11 Av SE

FILE NUMBER: 68331

ASSESSMENT: \$9,480,000

This complaint was heard on July 18, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 - 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *D. Genereux, Altus Group Limited*

Appeared on behalf of the Respondent:

- *E. Currie, City of Calgary Assessment*

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

[1] The Respondent, E. Currie, on behalf of the City of Calgary asked that rebuttal evidence be removed. She stated that because there was no Summary to accompany the evidence she could not respond to it.

[2] The Board decided that as there was no statement of direction accompanying the photographs in the package, the rebuttal package would be removed from the evidence.

Property Description:

[3] 132 – 11 Av SE, the old Customs Building, is assessed as a four storey, 84,981 sf Class "A" office building which is built on a 26,005 sf lot in the Beltline District of downtown Calgary. The building was completed in 1913 and is currently assessed at \$9,840,000.

Issues:

[4] Is the property assessed equitably compared to other similar properties? Should the classification of this property be changed from "A" to "B" with the accompanying assessment parameters. Do the assessment parameters result in an equitable assessment value for the subject property?

Complainant's Requested Value: \$4,650,000

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

Evidence and Arguments

[5] The Complainant, D. Genereux, Altus Group Limited, argued that the classification of the subject property was too high at "A" and should be reduced to "B". He said that a building of that vintage carries a higher risk than newer buildings because it is old and was built using different engineering methods than those used today.

[6] Mr. Genereux stated that the subject building loses productive space with stairwells, and has only one elevator for the entire building. He argued that modern buildings of the same size and classification would have a core bank of at least three elevators.

[7] He also argued that the finish of the building is not in the same class as other "B" buildings and the design is less functional than more modern buildings.

[8] When he showed where the subject building was located, Mr. Genereux stated that the old Customs Building is not in a prime location, with its close neighbours being *Inn From the Cold* and *The Mustard Seed*. Further there is very little parking available to the office building, with 25 available parking spaces being on a separate property.

[9] The Complainant introduced a list of "B" class buildings which he suggested were of superior quality to the subject property, with different finishes, more elevators, and more space. He stated that he would accept a "B" classification for the subject building, although the comparable "B" buildings were superior to it.

[10] Further the Complainant presented an argument to adjust the capitalization rate for the "B" property to accommodate a difference between market value and assessed value in a list of sales of "B" properties. The sales list consisted of properties which were comparable to the other "B" class buildings used to demonstrate the subject was inferior.

[11] The Respondent, E. Currie, City of Calgary Assessor, stated that the subject property sold in May 2011 for more than the assessed value. It was a donation in kind to Cantos Music Foundation, but had been independently appraised at \$17,000,000 and \$18,200,000 by two separate appraisers.

[12] A Class "A" Beltline office rent study was presented by the Respondent to support the City's assessed rental rates and an "AA" class Beltline office building sale (post facto) was presented to support the capitalization rate. Further, published information was submitted to suggest that the subject building had been extensively renovated in 2006-2007.

[13] Upon questioning, it was revealed that the Respondent had not inspected the subject building personally.

[14] The Complainant pointed out that the subject sale was tainted by the fact that it was an in kind donation and the value was created by appraisers rather than through the market. He further stated that the supporting sale presented by the Respondent was post facto and not valid for a Capitalization rate study.

Board Findings

[15] The Board reviewed the Complainant's capitalization rate study and "B" class comparables. The Board found that the "B" class properties were not directly comparable to the subject property, and in the absence of similar properties to compare, an appropriate study to justify changes in rates was not available. Therefore, the onus of proof had not been shifted to the Respondent to show that the property was not class "A" and was assessed at the wrong rates.

[16] Further, although the appraised value of the building was not entirely reflective of market value, it was an indicator that the 2012 assessment was not too high, and possibly lower than market value. For these reasons, the Board accepted the 2012 City of Calgary assessment.

Board's Decision:

[17] The Board confirms the assessment of \$9,480,000.

DATED AT THE CITY OF CALGARY THIS 7th DAY OF August 2012.



L. Yakimchuk
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R2	Respondent 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. 1131-2012-P

Roll No. 068114800

Subject	Type	Issue	Detail	Issue
CARB	Office	4 Storey	Income Approach	Class