

**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:

***Western Securities Limited
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***M. Vercillo, PRESIDING OFFICER
K. Coolidge, MEMBER
P. Pask, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER: 112142625

LOCATION ADDRESS: 7101 5 ST SE

FILE NUMBER: 68162

ASSESSMENT: \$5,810,000

This complaint was heard on 16th day of July, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *G. Kerslake*

Appeared on behalf of the Respondent:

- *M. Lau*

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

[2] The subject is a three storey, multi-tenanted suburban office property located in the "East Fairview Industrial" community and with close proximity to the Central Industrial zone of SE Calgary. According to the information provided the property contains one building that was constructed in 1999, with an assessed rentable area of 26,998 square feet (SF). The building is situated on a 87,146 SF site that is zoned Industrial - General.

[3] The subject is considered a class A- property for assessment purposes and is assessed using the Income Approach to value, using a market rental rate of \$17.00 per SF on 26,998 SF of office space, an 8% vacancy rate, operating costs of \$12.50 and a 1.00% non-recoverable rate to calculate net operating income value. In addition, the subject has 15 enclosed parking spaces, each with a gross annualized value of \$1,080.00, a 2% vacancy rate and a 1.00% non-recoverable rate to calculate net operating income value. The office space/parking components' net operating income is capitalized for assessment purposes using a 7.00% capitalization rate (cap rate).

Issues:

[4] There were a number of issues raised on the complaint form, however, for this hearing, the Complainant addressed the following issue:

- 1) The office space assessed rental rate applied to the Income Approach to value should be reduced to \$15.00 per SF.

Complainant's Requested Value:

[5] \$5,100,000

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

ISSUE 1: The office space assessed rental rate applied to the Income Approach to value should be reduced to \$15.00 per SF.

The Complainant provided a 122 page document entitled "Complainant's Written Argument" that was entered as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence with respect to this issue:

[6] That evidence and argument from CARB hearing file #67773 be brought forward from that hearing to this hearing as the issue, arguments and evidence are similar in nature as outlined in the following paragraphs.

[7] A table of suburban office comparables within the Central Industrial zone of SE Calgary. The table compared five leased spaces of three comparable buildings to the subject. Two of the comparables were in the neighbouring Highfield district while one was in neighbouring Manchester district. It was noted during questioning that the three comparable buildings (five leased spaces) were being appealed by the Complainant under separate appeals. The properties had lease start dates ranging from March 1, 2010 to March 1, 2011. The leased spaces varied in size from 3,381 SF to 13,683 SF. The lease rates of these properties ranged from \$14.00 per SF to \$16.00 per SF with an average of \$14.80 per SF, a weighted average of \$14.58 per SF and a median of \$15.00 per SF. The Complainant concluded his analysis by applying the \$15.00 per SF rental rate to the Income Approach to value, using the same parameters of the original assessment to arrive at a requested value of \$5,100,000 or \$188.80 per SF.

[8] City of Calgary assessment documentation showing that location is a major factor in assessment stratification of similar properties.

[9] A chart entitled "City Assessment Parameters - Suburban Office – 2012". The chart provided information on Income Approach valuation for suburban office properties in the SE quadrant. Buildings within the southeast quadrant were stratified by class as follows:

- 1) Quarry Park,
- 2) A+,
- 3) A,
- 4) B,
- 5) and C

It was noted that although rental rates varied according to class, the vacancy rates, operating costs and non recoverable costs remained constant. In addition, the cap rates for classes Quarry Park, A+ and A buildings (like the subject) was 7% and only increased to 7.75% for the class B and C buildings.

[10] Argument from an Assessment Review Board (ARB) decision, ARB 0506/2010-P and a decision from CARB 0940/2011-P were provided. Both decisions dealt with Quarry Park properties. The Complainant highlighted that Quarry Park was viewed by the Respondent to be a different class of properties because it had sufficient leasing and sales activity to stratify it from other suburban office properties in the SE quadrant. The Complainant suggested that the same reasoning should apply in this instance.

The Respondent provided a 23 page document entitled "Assessment Brief" that was entered as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence with respect to this issue:

[11] That evidence and argument from CARB hearing file #67773 be brought forward from that hearing to this hearing as the issue, arguments and evidence are similar in nature as outlined in the following paragraphs.

[12] A table of comparable properties to the subject, all in the SE quadrant of Calgary. The table compared 12 leased spaces of 4 comparable buildings that were assessed by the City of Calgary as Class "A-" buildings. Three of the comparable buildings and their respective leased spaces and rates were also used by the Complainant in their analysis. However, the Respondent excluded a March 1, 2010 leased space of a Highfield comparable used by the Complainant, but included an October 1, 2010 leased space of the same Highfield comparable that was not used by the Complainant. The Respondent also added one building to the Complainant's analysis that was located in the Midnapore submarket area. The lease rates of these properties had an average of \$16.34 per SF and a median of \$16.50 per SF. The Respondent concluded her analysis by arguing that the comparable lease rates justify the \$17.00 per SF rental rate used in her Income Approach to value the subject. Further, it is equitably assessed to all other class A suburban office properties in the SE quadrant.

[13] It was noted during questioning from the Complainant, that:

- 1) The Midnapore property is a two storey property about 14 kilometres (kms) from the subject.
- 2) The Midnapore property is surrounded by other similar two storey properties in a submarket area that's predominately suburban office and retail. The Highfield submarket area is predominately industrial with some suburban office.
- 3) The Midnapore property compared leased spaces that were much smaller than the subject and therefore should have included a weighted average lease rental rate analysis.

The Complainant provided a 69 page rebuttal document that was entered as "Exhibit C2". The Complainant, along with Exhibit C2, provided the following evidence in rebuttal to the Respondent's evidence:

[14] A weighted average analysis was included in a reproduction of the Respondent's lease rate comparables. The weighted average of the Respondent's lease rate comparables was \$15.21 per SF. The Complainant concluded that the weighted average lease rate of the Respondent's comparables supported the Complainant's requested assessed lease rate of \$15.00 per SF and did not support the Respondent's \$17.00 per SF assessed lease rate.

[15] Various charts of unrelated lease rate comparables, demonstrating that the City of Calgary usually includes a weighted average in their analysis of lease rate comparables. The Complainant argued that a negative inference could be drawn from the Respondent's omission of the weighted average.

[16] Argument from a CARB decision, CARB 1250/2011-P, where the CARB found that properties in close proximity and similar in appearance to the subject are most comparable to the subject. The Complainant suggested that the CARB should follow the same reasoning in this case.

[17] An analysis of the Respondent's lease rate comparables that split Central Industrial Area comparables, which include Highfield and South Manchester submarkets, from the Midnapore comparable. The Central Industrial Area properties had a lease rate median of \$15.00 per SF, an average of \$14.91 per SF and a weighted average of \$14.68 per SF. The Midnapore property had a lease rate median of \$17.50 per SF, an average of \$17.36 per SF and a weighted average of \$17.21 per SF. It was the Complainant's position that disparity in the lease rates supports their contention that the subject is in a unique and separate market zone with its immediate neighbours and is not comparable to the Midnapore property provided by the Respondent.

[18] A City of Calgary map of various communities and industrial area locations. The map conveyed that the Central Industrial zone included submarket areas such as Highfield and Manchester that were in close proximity to each other with no exposure to Macleod Trail like the subject. Whereas the Midnapore submarket area is a relatively large distance away from the subject property and has exposure to Macleod Trail.

The CARB finds the following with respect to this issue:

[19] That the comparables in close proximity and similar in appearance to the subject are superior in comparability to the subject.

[20] That the Central industrial zone comparables have significantly different rental rates in comparison to the Midnapore comparable.

[21] That stratification of property assessment by location is an assessment parameter often used by the Respondent.

[22] That the East Fairview submarket has significant differences in terms of exposure to Macleod Trail and the suburban office/industrial mix versus the suburban office/retail mix found in the Midnapore submarket.

Board's Decision:

[23] The complaint is accepted and the assessment is revised to \$5,100,000.

The CARB provides the following reasons for the decision:

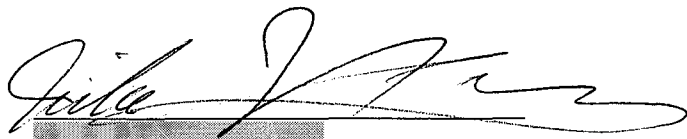
[24] The Complainant was able to provide sufficient evidence that the subject property's, assessed rental rate is inequitable when comparing the lease rate comparables of the subject and two comparable buildings in the Central Industrial zone, that in close proximity to the subject.

[25] The Respondent claimed that all Class A suburban office properties in the SE quadrant of Calgary are assessed using the Income Approach, at an assessed lease rate of \$17.00 per SF. However, the Respondent only provided lease rate comparables of one building in Midnapore, in addition to the Complainant's comparables to prove this point. The CARB determined that the Respondent failed in this endeavour, because of the paucity of her evidence.

[26] The Complainant was able to prove through his own evidence and through the rebuttal of the Respondent's evidence that comparable suburban office properties in the Central Industrial submarket zone and those in close proximity to that submarket experience

significantly different rental rates than in the Midnapore submarket area and therefore warrant a different assessed rental rate in the Income Approach to value. In this case, the preponderance of the evidence favoured a \$15.00 per SF rental rate.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF AUGUST 2012.



Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

| NO. | ITEM |
|-------|------------------------|
| 1. C1 | Complainant Disclosure |
| 2. R2 | Respondent Disclosure |
| 3. C2 | Complainant Rebuttal |

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 Office Only)

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|----------|----------|----------|--------------------|-------------|
| CARB | Office | Low Rise | Income Approach | Lease Rates |
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