

**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(4), Revised Statutes of Alberta 2000 (the Act).

between:

***ARTURUS REALTY CORP., COMPLAINANT,
As represented by Altus Group***

and

The City Of Calgary, RESPONDENT

before:

***Ted Helgeson, PRESIDING OFFICER
Yvette Nesry, MEMBER
Joe Massey, 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 2011 Assessment Roll as follows:

ROLL NUMBER: 037181013

LOCATION ADDRESS: 3520 Research Way N.W.

HEARING NUMBER: 63376

ASSESSMENT: 15,310,000

This complaint was heard on Tuesday, the 28th of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *D. Genereux and G. Worsely*

Appeared on behalf of the Respondent:

- *Magan Lau*

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

No procedural or jurisdiction matters were raised.

Property Description:

The subject property is located at the University of Calgary southwest of Crowchild Trail. The subject building was constructed in 1989, and is assessed as an "A2" quality office building of 239,922 square feet with no underground parking. Calgary Health Region rents 127,112 square feet in the building, and Imperial Oil rents 58,950 square feet.

Issues:

Is the assessment of the subject property inequitable?

Complainant's Requested Value: \$11,380,000

The Complainant's Position

The assessed value of the subject property is unreasonable. The class of the building needs to be corrected to assess actual operations. The fact that the assessed rent is too high when compared to actual income is an inequity that needs to be corrected. It is evident from an analysis of other properties that the actual rent being paid is a significant factor in classifying a building, but this appears to have been ignored in the case of the subject property. It is requested that the Board value the subject property in conformance with taxpayer rights to an assessment based on market value.

As assessed, the potential net income of the subject property is \$4,405,853, or \$18.36 per square foot, which does not compare well with the actual net income of \$2,966,706, or \$12.46 per square foot. Deferred capital costs of \$3,063,682.67 are being amortized at a rate of approximately \$19,000 a month. At this rate, the outstanding balance of the deferred capital costs would have been \$2,150,000 as at December 31st, 2010. The taxable portion of the assessment should be reduced by \$3,930,000 to \$11,380,000, based on \$18 per square foot, the rate indicated by the major taxable tenant, Imperial Oil. This reduction will in part address the deferred capital costs of \$3,063,683, and will correct the assessment to reflect actual value.

The Respondent's Position

The Complainant has provided the rent roll of the subject property but has not included any evidence with respect to similar properties and their assessments or rental rates. The subject property has been assessed equitably in comparison to five other "A2" suburban offices located in the same submarket and the same community, all with the same typical office rental rate of \$20 per square foot. These comparable properties are located at 3545 Research Way N.W., 3650 36th Street N.W., 3303 33rd Street N.W., 3512 33rd Street N.W., and 40 Research Way N.W.

Furthermore, the subject was assessed fairly with respect to the typical office rental rate that was used in the income approach to value. Six leases, all from 3553 31st Street N.W., the property most comparable to the subject, are shown below:

Quality	Lease Commencement Date	Lease Area (SF)	Lease Rental Rate (SF)
A2	10/01/2009	7,392	\$18
A2	11/01/2009	1,947	\$18
A2	11/01/2009	3,810	\$18
A2	01/01/2010	1,080	\$24
A2	05/01/2010	2,696	\$22
A2	06/01/2010	3,677	\$22

The median of these leases is \$20 per square foot, and the weighted mean is \$19.55 per square foot. These leases support the typical rental rate for office space of \$20 per square foot. The lease relied on by the Complainant to support \$18 per square foot was signed in 2002. The subject property has been fairly and equitably assessed. Were the assessment based on \$18 per square foot, inequities would be created.

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

Section 2 of AR 220/2004, the *Matters Relating to Assessment and Taxation Regulation* provides as follows:

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,*
- (b) must be an estimate of the value of the fee simple estate in the property, and*
- (c) must reflect typical market conditions for properties similar to that property.*

The regulation is clear. In preparing an assessment in Alberta, an assessor must use mass appraisal, and ensure that the assessment so prepared reflects typical market conditions. The goal of the assessment process is an *estimate* (Board's italics) of the value the of the fee simple estate in the property. "Typical market conditions" does not mean actual rental rates in a specific property. It means rental rates derived from a range of similar properties. From the evidence of the Respondent, the Board is satisfied that the assessment of the subject property was arrived

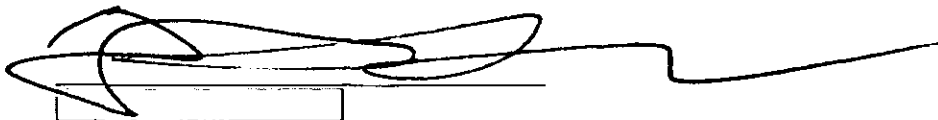
at using typical values. This is not to say that the assessment is necessarily correct or equitable, but the obligation of demonstrating that the assessment is wrong is that of the Complainant.

The Complainant requests that the assessment be reduced based on the rental rate of a one lease in the subject property, a lease that commenced in May of 2002. The Complainant stated "It is understood from the Assessment Review Board testimony from assessors that office buildings have been classified by the predominant rental rates they generate." No evidence was adduced to support that statement. The Board was asked to "(C)orrect an inequity in that the assessed rent is too high when compared to actual income." This focus on actual income may explain why no comparable properties were put in evidence by the Complainant, nor was there evidence that the subject property had been classified improperly. In the result, the Complainant failed to meet the onus of establishing a *prima facie* case that the assessment was inequitable.

Board's Decision:

The assessment is confirmed at \$15,310,000.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF August 2011.



Presiding Officer

Exhibits

C-1: Complainant's Written Argument

R-1: Assessment Brief

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.*