

**CALGARY
COMPOSITE 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:

Newvest Realty Corporation (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

S. Barry, PRESIDING OFFICER

J. Mathias, MEMBER

P. McKenna, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board (CARB) 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:	024023905
LOCATION ADDRESS:	5735 7 St. NE
HEARING NUMBER:	67648
ASSESSMENT:	\$7,790,000

This complaint was heard on the 31st 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:

- *D. Chabot, Altus Group Limited*

Appeared on behalf of the Respondent:

- *C. Neal, City of Calgary*
- *C. MacMillan, City of Calgary (Observer)*

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

[1] At the time of the hearing, the Complainant withdrew her request pursuant to s. 9(4) *Matters Relating to Assessment Complaints Regulation*, AR 310/2009 (MRAC) for the exclusion of information sought under ss. 299/300 of the Act. The Complainant said that the withdrawal was based on an oral decision of the Board on the immediately prior hearing with respect to decision 1335/2012-P, roll no. 031023401. Through questioning the Board determined that the Complainant was not requesting that the argument be carried forward, only that the s. 9(4) MRAC request was withdrawn.

Property Description:

[2] The property under complaint is located at 5735 7 St. NE, within the Deerfoot Business Centre in the NE quadrant of the City. It is a multi-tenanted, suburban office/warehouse, constructed in 2000, containing 40,514 square feet (sq.ft.) Its land use district is Industrial-Business and it is assessed as an A class building using the Income Approach to Value using a vacancy rate of 1 per cent, a rental rate of \$14/sq.ft. and a capitalization rate (cap rate) of 7 per cent.

Issues:

[3] The Complainant put forward several issues which can be consolidated as follows:

1. Is the building correctly assessed as an A quality building or does a B classification more correctly reflect its market value for assessment purposes and, if so,
 - a) Should the rental rate be reduced from \$14/sq.ft. to \$12/sq.ft.?
 - b) Should the cap rate be increased from 7 per cent to 7.75 per cent?
2. Should the vacancy rate be increased to 4.5 per cent from 1 per cent?

[4] There was no issue with the assessment methodology or with the rates applied for operating costs or non-recoverable items.

Complainant's Requested Value:

[5] The Complainant requested an assessment of \$5,630,000 based on a change in the classification of the building and an increase in the vacancy rate.

Board's Decision in Respect of Each Matter or Issue:**Issue 1: Building Classification**

[6] The Complainant submitted that the City classifies suburban office/warehouses as either A quality or B quality and, for the purposes of this Complaint, that the rents and cap rates differ between the two classes. The Complainant asserted that in 2010 and 2011 the subject was classified as a B quality building but the classification was changed to A quality for 2012. This information was refuted by the Respondent to the extent that a revised assessment was done on the property in 2011 when it was reclassified to an A quality. The Complainant confirmed this.

[7] The Complainant contended that the requested classification can be supported, in part by the difference in rents being achieved by the two types of buildings and pointed to 5 A class buildings, ranging in size from 15,146 sq.ft. to 82,225 sq.ft. and in year of construction from 1980 to 2008. According to the chart provided, rents achieved in the subject range from \$12-\$15/sq.ft. and in the 5 comparables, from \$17-\$25/sq.ft. The lease dates range from November 2006 to December 2008. It was the Complainant's contention that there are very few new leases for these types of premises but that the comparables demonstrated that other A quality buildings are leasing at higher rents than those being achieved by the subject. Rent rolls provided by the Complainant for the subject, dated July 1, 2010 and December 1, 2011, show that rents, including step ups range from \$12 to \$19/sq.ft. in the lease periods July 2006 through October 2012 with \$16 and \$19/sq.ft. rents applicable to the two remaining tenants as of the valuation date of July 1, 2011.

[8] The Complainant also provided a partial Offer to Lease for a portion of the subject property. The Offer was dated September 30, 2011, three months after the valuation date and was intended to commence on March 1, 2012 with rents starting at \$11/sq.ft. The lease was incomplete and there was no evidence that an actual lease with the stated terms was ever executed.

[9] The Complainant argued that the evidence showed, in relation to the comparables provided on page 72 of C1, that year of construction did not appear to be a determinant in assigning a quality classification; however this assertion was refuted by the Respondent who argued that two of the older comparables had undergone extensive renovations that changed their effective year of construction. There was no documentation provided to support the nature and value of those renovations.

[10] The Complainant also argued that the property under complaint should be compared to three B class properties that range in size from 22,058 to 151,572 sq.ft., constructed between 1980 and 1992. The chart presented in C1 states that rents for two of these properties range from \$13.50 to \$14/sq.ft. in leases ranging from 2000 through 2010. The third property is owner occupied and no rental information is available. The Complainant contended that although one of the properties renewed a lease in January 2011 for \$14 – an A class rent – it is only

assessed as a B class building. The rent renewal information was not supported.

[11] With respect to the capitalization rate, the Complainant argued that, in the absence of sales, she supported her request for 7.75% on the basis that this was the factor used by the Respondent for B class buildings.

[12] Black and white pictures of the subject and the comparables were provided by the Complainant. Unfortunately, due to the poor reproduction quality of these pictures, the Board was not able to make any meaningful visual comparisons to support a conclusion on building quality.

[13] There was considerable argument and questioning about what factors go into determining the quality classification of a building. The Respondent was not able to provide details specific to the property but identified, in general terms, factors such as exposure, visual impact, location and finishing. No evidence specific to the subject or the comparables was advanced at the hearing.

Issue 1: Decision and Reasons:

[14] The request to reclassify the building to B quality is denied. The Board did not grant any change to the rental rate or the cap rate based on building quality.

[15] The rental rate data for the subject supported the assessment. Historical lease information was quite dated. The pictorial evidence was inconclusive at best and there was little or no information about either the subject or the comparables that spoke to the factors used by the Respondent to determine building classification. The Board could not help but note that the Complainant's disclosure document contained information from the City's website that gave quite detailed information on what differentiates one class of building from the other. Neither party satisfactorily addressed this issue.

[16] The Board also observed that 20 per cent of the assessment was dependent on that one reclassification issue and it seemed to the Board that both parties had an obligation here that was not met: on the Respondent's side, to better explain the rationale to the Complainant and the Board so that the assessment could be understood; on the Complainant's side, to make more thorough comparisons to support the argument.

Issue 2: Vacancy Rate

[16] The Complainant had requested that the vacancy argument from a hearing earlier in the day be carried forward. That argument and the information relative to the Complainant's vacancy study, is covered in CARB decision 1335/2012-P. The Board did request an overview of the evidence and argument and that was provided by the Complainant and the Respondent. Nothing new was brought forward and, accordingly, the Board made the same decision for the same reasons as it did in CARB 1335/2012-P. That decision is reproduced immediately below.

Issue 2: Decision and Reasons:

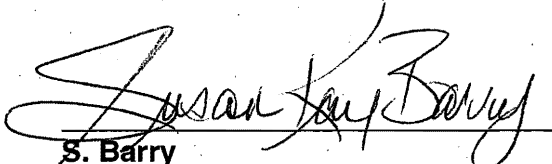
[17] The Board determined that there was no basis in fact to warrant an amendment to the assessed vacancy rate.

[18] The Complainant did not make its case that either the subject of 1335/2012 was vacant or that the subject property at 5735 7 St. NE was vacant on the valuation date. The Complainant was unable to raise any convincing argument for why there should be a further stratification of this property sub-class based on location. The Complainant's charts on p.161 of C2 contained errors as to the locational assignment of two properties and omitted one NE property altogether. The conclusions drawn from that page are therefore in question.

Board's Decision:

The 2012 Assessment is confirmed at \$7,790,000

DATED AT THE CITY OF CALGARY THIS 29th DAY OF August 2012.


S. Barry
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's Disclosure
3. C2	Complainant's 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;

- (a) *the assessment review board, and*
- (b) *any other persons as the judge directs.*

For MGB Administrative Use Only

Decision No.:		Roll No.:		
Subject	Property Type	Ppty Sub-type	Issue	Sub-Issue
CARB	Suburban Office	Office/Warehouse	Bldg. Class	Vacancy; rent rate; cap rate
	Jurisdiction/Proc	Info Exchange	s. 9(4) MRAC	withdrawn