

**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:**

***BPCL Holdings Inc (as represented by Altus Group Ltd), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***F.W. Wesseling, PRESIDING OFFICER***

***R. Deschaine, MEMBER***

***R. Kodak, 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: 068204403**

**LOCATION ADDRESS: 1501 1 St SW**

**FILE NUMBER: 66474**

**ASSESSMENT: \$4,830,000.**

This complaint was heard on 30th day of July, 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*

Appeared on behalf of the Respondent:

- *L. Wong*

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

[1] No specific jurisdictional or procedural matters were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint

**Property Description:**

[2] The property, commonly known as the First West Professional Building, is located in the Beltline and consists of 11,141 square feet. A four story office building, constructed in 1979, containing 27,142 square feet is located on the site. In addition, 40 parking stalls are provided for on site. Under the City of Calgary Land Use Bylaw the property is designated "Commercial-Corridor 1".

**Issues:**

The Complainant raised the following matter in Section 4 of the Assessment Complaint form: Assessment amount.

Presentation of the Complainant and Respondent were limited to:

- Assessment market value is overstated in relation to comparable properties.
- Rental Rate
- Capitalization Rate.

**Complainant's Requested Value:** \$2,720,000.

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

[3] Complainant's Position: The issues raised with regard to the assessment are twofold. Firstly, the complainant wishes to make a case that the capitalization (cap.) rate applied in determining the assessment should be raised to 12% from 7.75%. The second issue is that the market net rental rate for the office space in the building should be reduced from \$13 per square foot to \$11 per square foot.

[4] In support of the cap rate change the Complainant presented 6 sales in the Beltline. These properties are similar and in a competitive situation with the subject property. Details of the sales and the properties were reviewed and the Complainant indicated that after comparing the assessed values of these properties to their actual sale prices it is clear that these comparable properties are only assessed at approximately 65% of their value. It is concluded

from that that the assessment for the subject property requires a 35% downward adjustment to achieve equity with its competitors.

[5] In order to arrive at the requested cap rate, a calculation of the above noted properties was provided indicating an "effective capitalization rate" for the six comparable properties ranging from 9.15% to 15.51%. The median cap rate is 12.4% while the average cap rate for all six properties is 12.11%. As part of this discussion, the Complainant raised an issue with regard to ASR with regard to properties in this area while indicating the subject property for the tax year is at 1.00.

[6] With regard to the office rental rate a reduction was put forward which is based on the Business Assessment Rate calculation for this property. The calculation provided took the square footage of the building and divided it by the total business assessment (\$264,990) resulting in a \$11 per square foot rate. Extensive background was provided that confirms, according to the Complainant, that Business assessment and Property assessment are the same. Current teachings of Alberta Municipal Affairs to Assessment Review and the Queen's Bench McIntyre directive for assessments were outlined.

[7] Respondent's Position: A general background was provided, detailing a 2012 Beltline Office B Class Rent Study as well as an office vacancy study. As part of this background the City outlined how the capitalization rate was arrived at and provided all the 2012 Beltline Capitalization rates.

[8] A review of the Complainant's comparable properties was provided which indicated that 3 of the sales were post facto occurring in December of 2011 and January 2012. A fourth sale was of a building of poor quality and occurred in September of 2011. This property is assessed based on land value only. The City summarizes that the comparable property sales to generate an alternative capitalization rate was very selective, poorly conceived and without merit.

[9] With regard to the office rental rate the Respondent provided general background on how property assessment and business assessment utilize two different valuation standards. Property assessment is based on market value as of July 1 the year prior to the tax year and is an estimate of fee simple estate. Business assessment is the net annual rental value of the property improvements. As there has been discussion in Calgary to consolidate non-residential property tax and business tax does not make the 2 taxes the same and should not be construed to be utilized in this manner as suggested by the Complainant.

[10] In Rebuttal the Complainant re-addressed the assessment position that the subject property is assessed at 65% of value and illustrated how the subject property is classified and valued based on actual rental incomes.

### **Board's Decision:**

[11] Upon reviewing the verbal and written evidence provided by the parties, the Board found that the Complainant failed to demonstrate that the assessment was in excess of market value. The Board confirms the assessment at \$4,830,000.

[12] Reasons:

- a. The Board found that to change an input to the income approach, an independent analysis should be presented. No such evidence was provided for the Board's consideration.
- b. The capitalization rate analysis presented by the Complainant was not comprehensive

and lacked appropriate sales data.

c. The Board found that it could not support the notion, put forward by the Complainant, that business assessment is the same as the property assessment.

DATED AT THE CITY OF CALGARY THIS 29<sup>th</sup> DAY OF August, 2012.

  
F.W. Wesseling  
Presiding Officer

#### **APPENDIX "A"**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Written Argument
2. C2	Complainant Written Argument
3. R1	Assessment Brief
	Complainant Disclosure
	Complainant Disclosure
	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.

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Decision No.		Roll No.		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Office Building	Income Approach	Office Rental rate and Capitalization Rate	Equity