

**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:**

***Sun Life Assurance Company of Canada (as represented by AltusGroup), COMPLAINANT***

**and**

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

**before:**

***Board Chair, J. Zezulka  
Board Member 1, S. Rourke  
Board Member 2, A. Wong***

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: 138152418**

**LOCATION ADDRESS: 3445 – 114 Avenue SE**

**HEARING NUMBER: 64255**

**ASSESSMENT: 30,000,000.00**

This complaint was heard on 12 day of July, 2011 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom One

Appeared on behalf of the Complainant:

- *D. Mewha*

Appeared on behalf of the Respondent:

- *C. Lee*
- *A. Jerome*

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

At the outset of the hearing, the Respondent stated that the Complainant's rebuttal document was received within the statutory time frame. However, the document was transmitted electronically. The electronic version was corrupted and therefore unreadable. Since the document was received by the Respondent at least seven days prior to the hearing, there should have been ample time to contact the Complainant and obtain a readable copy. It was the decision of this Board to have ample copies made, and the hearing proceeded as usual.

**Property Description:**

The subject is an industrial/suburban office complex in the community of Shepard Industrial, known as the Douglasdale Executive Center. The property consists of three buildings. The first building is a 70,300 s.f. multi tenant warehouse, built in 2002. The other two buildings are suburban offices that were constructed in 2008 / 2009. These have a combined rentable area of 95,688 s.f. The property occupies a site of 9.15 acres.

The warehouse building was assessed a multi-tenant warehouse using the City's mass appraisal regression model at a rate of \$129.35 per s.f. The office buildings were assessed using the income approach, which incorporated a rental rate of \$20.00 per s.f., a vacancy allowance of 10 per cent, vacancy space shortfall of \$12.50 per s.f, non recoverable allowance of 2.0 per cent, and a capitalization rate of 7.50 per cent.

**Issues:**

The assessment on the industrial warehouse, and the land rate, is not in dispute. It is the Complainant's position that the subject's office buildings suffer from long term chronic vacancy. The Complainant requests a vacancy adjustment of at least 25 per cent be applied to the subject assessment.

**Complainant's Requested Value:** \$23,850,000.00

**Evidence**

The Complainant based the majority of his argument on the rent rolls from December, 2009 to May, 2011. The leasing summary for the office buildings, shows a vacancy of 60.2 per cent for the period ending December 31, 2009. As of July 1, 2010, the rent roll shows a vacancy of 57.97 per cent. On December 31, 2010, the vacancy stood at 51 per cent. Rental rates were shown at \$22.00 to \$26.00 per s.f. The two most recent tenants signed leases at lower

amounts, being \$18.50 and \$18.00 per s.f. The overall vacancy as of May 1, 2011 was shown at 33.06 per cent.

The Complainant also drew the Board's attention to past CARB decisions, particularly one dealing with the subject (CARB 1441/2010-P), wherein the Board reduced the assessment by increasing the vacancy rate.

The Complainant also offered two equity comparables, both with inordinately high vacancy. However, the Board notes that the vacancy allowance has been maintained at 10.0 per cent in one instance and 6.0 per cent in the other. Rather, the City has applied a rental differential of \$5.00 per s.f. between the occupied space and the unoccupied, or shell, space in some instances.

The Respondent argued that the subject does not suffer from chronic vacancy, but is simply going through the typical lease up period experienced in all new, speculative office buildings. The Respondent submitted two supplementary checklist sheets from the Calgary Development and Building Approvals department that showed that both subject buildings were not 100 per cent complete until May, 2009, and therefore could not have been occupied at least until that time.

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

The term "chronic vacancy" implies an on-going or perpetual vacancy that is the result of some inherent deficiency in the building, the buildings location or other adverse influence that would affect the premises, and that has little likelihood of being corrected in the foreseeable future. The Board does not believe that this is the case with the subject. The evidence shows that the subject buildings were 100 per cent complete and ready for full occupancy on May 21, 2009. Since that time there have been new tenants, and the vacancy is gradually decreasing. It is also common knowledge that economic conditions have seen to it that the lease-up procedure takes longer than in previous years, and rental rates are slightly lower.

Having said that, this Board is also cognisant of the fact that a high vacancy does exist, albeit temporary. In recognition of that fact, the Board reduces the applicable rental on the vacant or undeveloped space by \$5.00 per s.f. which reflects the practice of the City in some similar situations.

Using the amended inputs, the revised assessment calculates to \$27,138,960

The revised assessment is truncated to \$27,130,000.00.

**DATED AT THE CITY OF CALGARY THIS 29 DAY OF July, 2011.**



**Jerry Zezulka**  
**Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Submission of Evidence, 2011
2. C2	Complainat , Support and Background
3. C3	Rebuttal Submission of the Complainant
4. R1	Assessment Brief of the City of Calgary
5. R2	Assessment Brief of the City of Calgary ; 9940 – Macleod Trail SE

*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.*