

**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 (MGA).

between:

Brookfield Properties (CHS) Ltd. / 6640982 Canada Inc.
(as represented by Colliers International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. J. Griffin, PRESIDING OFFICER
J. Joseph, MEMBER
P. McKenna, MEMBER

This is a complaint to the 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: 201412756

LOCATION ADDRESS: 605 – 1st Street SW

HEARING NUMBER: 65942

ASSESSMENT: \$20,080,000.

This complaint was heard on 14th day of August, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- C. Hartley

Appeared on behalf of the Respondent:

- H. Neumann

Property Description:

[1] A detailed description of the property was not provided by either party; however, the CARB was able to discern, largely from the Income Approach Valuation sheet (Exhibit C1 pgs. 6 & 7) that the subject, commonly referred to as the former Herald Block, actually consists of five properties on the one roll number. There is the 82 stall Empress parking lot of approximately 13,000 Sq. ft., the Fitzpatrick Building of approximately 16,298 Sq. Ft., the Heagle Building containing approximately 8,822 Sq. Ft., the Herald Annex Building containing approximately 52,135 Sq. Ft., the Herald Building containing approximately 69,802 Sq. Ft. and the Irish Linen Building containing approximately 1,800 Sq. Ft. In total the property contains approximately 150,101 Sq. Ft. of assessed office and retail space. The property is categorized as being a 'C' class.

[2] The property has been valued, for assessment purposes, through application of the Income Approach with the following inputs:

<u>Category</u>	<u>Rentable Area</u>	<u>Rental Rate</u>	<u>Typical Vacancy</u>
Office	102,533 Sq. Ft.	\$12.00/Sq. Ft.	15.00%
Retail Main	34,901 Sq. Ft.	\$15.00/Sq. Ft.	8.00%
Retail 2 nd Floor	2,915 Sq. Ft.	\$15.00/Sq. Ft.	8.00%
Retail Below Grade	3,600 Sq. Ft.	\$10.00/Sq. Ft.	8.00%
Storage Space	6,152 Sq. Ft.	\$ 8.00/Sq. Ft.	10.00%
Parking	82 Stalls	\$4,500/Stall	2.00%
Vacant Space Shortfall	@	\$16.00/Sq. Ft. office	
	@	\$20.00/Sq. Ft. retail	
	@	\$ 5.00/Sq. Ft. storage	
Non-Recoverable Allowance	@	2.00%	
Capitalization Rate	@	8.00%	

Issues:

[3] There are a number of interrelated issues outlined on the Assessment Review Board Complaint form; however, at the Hearing the Complainant reduced the single issue to be considered by the CARB to:

1. The assessed office vacancy rate is 15% however, based upon the actual vacancy the allowance should be 25%.

Complainant's Requested Value: \$16,530,000. (Exhibit C1 pg. 17)

Party Positions:**Complainant's Position**

[4] The Complainant provided (Exhibit C1 pgs. 19 – 29) copies of the rent roll as of December 31/11 from which the Complainant has calculated the vacancy rates as having been 45.90% for the Fitzpatrick Bldg., 60.26% for the Heagle Bldg., 32.74% for the Herald Annex Bldg., and 34.97% for the Herald Bldg. Based upon this evidence the Complainant requests the vacancy allowance applied to the subject assessment be raised from 15% to 25%.

Respondent's Position

[5] The Respondent provided (Exhibit R1 pg. 86) a copy of the 2012 Downtown Office Vacancy chart showing the applied vacancy rates for the various categories of downtown office buildings as well as the vacancy rates, by category, as estimated by four independent reporting commercial brokerages. The Respondent pointed out to the CARB that the independent agency vacancy estimates are provided merely as support for the conclusions derived by the Assessor's vacancy study. Additionally the Respondent provided (Exhibit R1 pg. 87) a copy of the Assessor's 'B' class downtown office vacancy study and (Exhibit R1 pg. 88) of the 'C' class downtown office vacancy study, the latter of which indicates an overall rate of 10.68%. In addition the Respondent provided (Exhibit R1 pg. 98) a copy of their downtown Office 'C' Class Equity chart showing those buildings, including the subject, as having been given a 15% vacancy allowance. The Respondent introduced (Exhibit R1 pgs. 12 – 42) a copy of the 2011 *Assessment Request For Information* (ARFI) for the subject property which shows (page 14) leasing activity in the property. The Assessor further offered that, according to information they had received from the property manager, the property was not being actively marketed in terms of leasing and that all of the leases in the property contain a termination clause as it is the intent of the property owner to ultimately redevelop the site. The Assessor maintains that the 15% vacancy allowance was applied to the property in recognition of the high vacancy but that the vacancy is largely management driven; therefore, no further adjustment is warranted.

Complainant's Rebuttal

[6] The Complainant's rebuttal (Exhibit C2) consists primarily of evidence submitted by the City on an alternative case which tries to dispute the validity of third party market reports. Also included in the rebuttal evidence are several previous decisions of both this (CARB) Board and the Municipal Government Board which address the same matter.

Board's Decision:

[7] The assessment is **confirmed** at \$20,080,000.

Decision Reasons:

[8] The CARB finds the evidence of the Respondent to be more convincing than that of the Complainant. The Respondent's use of third party reports is for confirmation of the results of their internal studies and is not the basis for the estimate(s) of vacancy in the various categories of downtown office buildings. The 2011 ARFI, prepared by the property owner or manager shows successful leasing activity. The Complainant acknowledged that the property is no longer being marketed in terms of the vacant space and that this decision relates to the owner's desire to redevelop the site. The CARB was not provided with any evidence that might suggest a chronic vacancy issue with the property. The Assessor has given recognition to the higher vacancy rate in that an allowance of 15% was given as opposed to the more normal 10%. The CARB is not convinced that an increase in the vacancy allowance is warranted and for this reason the assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 20th DAY OF September 2012.


C. J. Griffin, Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant's Rebuttal
3. R1	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.*

For MGB Administrative Use Only

<i>Decision No. 1449-2012-P</i>			<i>Roll No. 201412756</i>	
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Office Building	Vacancy	Office Vacancy	Vacancy