

**COMPOSITE  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, (MGA) Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Degi Homburg Harris General Partner Ltd. (as represented by Altus Group Ltd.),  
COMPLAINANT***

and

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

before:

***C. J. Griffin, PRESIDING OFFICER  
J. Massey, MEMBER  
J. Kerrison, 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 2011 Assessment Roll as follows:

**ROLL NUMBER: 201027760**

**LOCATION ADDRESS: 207 - 9 Avenue SW**

**HEARING NUMBER: 64319**

**ASSESSMENT: \$280,470,000.**

This complaint was heard on 21<sup>st</sup> day of July, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *G. Worsley*
- *D. Genereux*

Appeared on behalf of the Respondent:

- *H. Neumann*
- *A. Czechowskyj*

**Preliminary Matter(s):**

One member of the CARB panel assigned to this Hearing was not available. Two members constitute a majority and thus a quorum; therefore, under Section 489 of the MGA the Hearing proceeded.

**Property Description:**

The subject property is commonly known referred to as Penn-West Plaza and it consists of two adjoining office buildings that are located on the south side of 9<sup>th</sup> Avenue SW, adjacent to the mainline CPR. The east building is the old 10 storey Post Office which was originally constructed circa 1960 but which was rebuilt to modern standards from the frame up in 2009. The west building is 20 storeys in height and is completely new construction and it was completed in 2010. The buildings contain a total assessed area of 636,700 Sq. ft. which includes 17,661 Sq. ft. of retail space, an 8,260 Sq. Ft. fitness centre and 112 Sq. Ft. of storage space. The development has a total of 368 parking stalls. It is not connected to the city's +15 pedestrian walk-way system.

**Issues:**

While a number of inter-related issues were outlined on the Assessment Review Board Complaint form, at the Hearing and in their submission the Complainant reduced these to:

- 1) The assessed building classification of "AA" is incorrect and should be 'A' class.
- 2) The assessment makes no allowance for the fact that a significant portion of the tenant improvements were not in place as at the condition date.

**Complainant's Requested Value:**

The requested assessment is: **\$188,890,000** (revised at the Hearing)

**Complainant's Position**

The Complainant contends that the subject property is not a "AA" Class office building as the Assessor has categorised it and this has led to it being over assessed by a considerable amount. In support of their contention the Complainant outlined (Exhibit C-1 pg. 6) several aspects of the subject property that do not meet the generally accepted aspects of a "AA" Class office building including: no +15 connection, no common lobby between the two buildings, two separate security desks (one for each building) and no interior access to the restaurant(s). Additionally the same page indicates some aspects of the subject which are not common to typical "AA" Class buildings such as the two buildings being separated by the loading docks and the fact that the subject abuts the main line CPR. Additionally, the Complainant prepared a comparison chart (Exhibit C-1 pg. 101) showing a number of factors whereby the subject does not compare favourably to any of the other "AA" Class buildings in the downtown core. The Complainant maintains that the Assessor incorrectly classifies the office buildings in the downtown core by the rental rate/Sq. Ft. being achieved and produced (Exhibit C-1 pgs. 76 -94) copious respected sources which discredit such methodology such as (Exhibit C-1 pgs. 77/78) "Real Property Assessment" published by the Sauder School of Business Real Estate Division, U. of BC which states:

*"The price per unit of comparison is the dependant variable – what is being estimated –*

*in the valuation model. The value of the dependant variable is predicted by (or depends on) the value of other variables, such as property attributes. **The unit of comparison should never be the grounds for selecting comparables.** Property attributes should be used instead."* (Emphasis added)

The Complainant also made a comparison between the subject property and the Banker's Court property which is located directly opposite the subject, on the north side of 9<sup>th</sup> Avenue SW. This building is reportedly a near mirror image of the west tower of the subject property and it produces a similar rental rate yet it is classed as being an "A" building by the Assessor thereby creating an inequity.

The Complainant also produced (Exhibit C-1 pg. 196) a copy of a building classification chart produced by an independent third party, Avison Young, showing the subject property as a class 'A' not 'AA'. In addition the Complainant produced (Exhibit C-1 pgs 102 – 127) exterior and interior photographs of many "AA" Class buildings in downtown Calgary and compared same to similar photographs of the subject (Exhibit C-1 pgs 19 – 55).

In support of their contention that the tenant improvements the Complainant produced (Exhibit C-1 pg. 210) a copy of a letter from the building owner/manager dated March 21, 2011 which confirms that as of December 31, 2010 a total of 10 floors equating to 207,073 Sq. Ft. of the subject property were vacant, unoccupied and with no tenant improvements in place. This same letter also notes that there was a further 4,500 Sq. ft. of retail space that was also vacant and unimproved. As further support for this matter, the Complainant produced (Exhibit C-1 pgs. 25 – 27) photographs of the interior of the subject showing same to be vacant and unimproved.

### **Respondent's Position**

The Respondent provided (Exhibit R-1 pgs. 15/16) an overview as to the *Physical & Economic Characteristics / Quality Classification* which outlines the process undertaken by the Assessor to establish downtown office building classifications. Among the factor to be considered are: location, physical condition, building functionality, year of construction, number of stories, total rentable area, floor plate size, type and quality of construction, quality of retail space, +15 connectivity, on-site parking capacity and building amenities.

The Respondent maintains that the old Post Office building (subject east tower) was demolished back to the skeleton and then completely rebuilt to "AA" office building standards. The Respondent also provided evidence (Exhibit R-1 pg. 52) that the subject property is generating parking revenue of \$550/stall per month which the Respondent maintains is an "AA" rate. The subject property also meets the floor plate size criteria of "AA" Class buildings and the total area of approximately 670,000 sq. ft. also meets the size criteria for "AA" Class buildings. In terms of size, the Respondent also maintains that the subject property, consisting of a 10 storey and 20 storey buildings is the same as being a 30 storey building which also meets the criteria of "AA" Class buildings. The respondent referred the CARB to a description of the property (Exhibit R-1 pg. 75) prepared by the property owner which refers to the subject as being "AA" Class. The Respondent also referred the CARB to CARB Order 1962/2010-P (Exhibit R-1 pg. 48) wherein the subject property which confirmed the subject as being "AA" Class. With regard to the subject not being connected to the +15 system, the Respondent referred the CARB (Exhibit R-1 pg 74) to a building permit that has been taken out by the property owner regarding the construction of same.

Insofar as the tenant improvements issue is concerned, the Respondent maintains that a one-time deduction for the lack of tenant improvements has been made in the past and for the Complainant to request a reduction now is a matter of double dipping. Additionally the Respondent maintains that the property is generating revenue that is indicative of the tenant improvements being in place.

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

The CARB finds that:

- 1) The subject property is a Class "A" office building.
- 2) The tenant improvements are not in place and cannot be assessed.

**Board's Decision:**

The assessment is **reduced** to: **\$188,890,000.**

**Reason(s) for Decision**

The CARB agrees with the Complainant that the subject property does not meet many of the criteria of the "AA" classification. Firstly, the location of the subject property being on the south side of 9<sup>th</sup> Avenue SW adjacent to the CPR mainline is not in keeping with any of the other "AA" buildings in downtown Calgary. While the CARB acknowledges that the subject does meet the floor plate size criteria of other "AA" class buildings, this is not enough to suggest that it is in fact in the same classification. There are examples of other office buildings in Calgary that have even larger floor plates which are not in the "AA" classification, Gulf Canada Square being just one example. The building height of the subject is significantly lower than other "AA" buildings and for the Assessor to suggest that a 10 storey building plus a 20 storey building equates it to being a 30 storey building is completely unacceptable to the CARB. The subject property does not share a common lobby between the two buildings as would be expected in a "AA" class building. The subject is not currently connected to the +15 system as are virtually all of the other "AA" buildings. The connectivity between the two buildings consists of a small second storey bridge that is dissimilar to other "AA" buildings. The number of parking stalls is considerably less than other "AA" buildings. The number and speed of the elevators in the subject is not in keeping with other "AA" buildings. The fact that the building owners classify the subject as "AA" could well be self-serving and does not convince the CARB. The Bankers Court building opposite the subject appears similar in many ways to the west tower of the subject yet it is classed as "A" not "AA" and this does appear to the CARB to be inequitable.

With regard to the matter of tenant improvements the CARB is of the judgment that the Assessor cannot assess what does not exist. the Assessor's claim that an allowance has been granted in the past would lead to 'double dipping' if it were granted again simply makes no sense to the CARB. The assessment is annual and the fact that an allowance may have been granted in the past should have no bearing on the current assessment.

DATED AT THE CITY OF CALGARY THIS 3 DAY OF August 2011.

  
C. J. Griffin, Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. 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.*