

**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:

Mayland Investments Inc. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

D. Cochrane, MEMBER

J. Massey, 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:	070032909
LOCATION ADDRESS:	221 18 ST SE
HEARING NUMBER:	68325
ASSESSMENT:	\$4,490,000

This complaint was heard on the 28th day of August, 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:

- Ms. D. Chabot (Altus Group Limited)

Appeared on behalf of the Respondent:

- Mr. G. Good (City of Calgary)
- Ms. C. MacMillan (City of Calgary)

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

- [1] There were no concerns with the Board as constituted.
- [2] There were no preliminary matters. The merit hearing proceeded.

Property Description:

[3] The subject property is a low rise suburban office building located in the Mayland Heights industrial district in SE Calgary that was constructed in 1979. The building contains 46,789 square feet (SF) of rentable area and is assessed as B quality, utilizing the Income approach to value.

Issues:

[4] The Assessment Review Board Complaint Form contained six Grounds for the Complaint. At the outset of the hearing the Complainant advised there was only one outstanding issue, namely: "The assessed vacancy and non-recoverable allowance applied to the subject property should be increased to above 13%."

Complainant's Requested Value: \$3,500,000 (Complaint Form)
\$2,600,000 (Hearing)

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

Issue: What is the appropriate vacancy and non-recoverable allowance to be utilized for assessment purposes?

- [5] The Complainant's Disclosure is labelled C-1.
- [6] The Complainant submitted the subject property is considered to be in the NE region even though it has a SE address and that it suffers from chronic vacancy and has for many years. The Complainant requested the assessed vacancy rate be increased from 11% to 25%.
- [7] The Complainant, at page 28, provided a chart titled Vacancy Issues noting the Average vacancy of the last three years is 56.47%, the average vacancy during the valuation year is 38.03% and the average vacancy since July 2009 is 56.90%.

[8] The Complainant submitted the subject office building is located in a primarily industrial area and has a self storage facility on the south and a charter bus facility on the north, as neighbours. In addition there is a rail spur abutting the west property line. The Complainant suggested these neighbouring land uses may be impacting the owner's ability to attract new tenants.

[9] The Complainant, at page 37, noted the assessed vacancy in 2009 was 9.00%. Similarly, on page 39, the assessed vacancy in 2010 was 12% despite the evidence of much higher actual vacancies in both years.

[10] The Complainant, at page 41, provided the marketing materials for the subject to demonstrate the efforts being made to acquire new tenants.

[11] The Complainant submitted a number of Composite Assessment Review Board (CARB) decisions, for various properties, dating back to 2010 to demonstrate that other Boards have accepted that abnormally high vacancy rates over a three year period constitutes a chronic condition and a corresponding reduction in the assessed vacancy allowance. The Complainant submitted the highest vacancy awarded in any of those decisions was 25%, in support of its request for a vacancy allowance of 25%.

[12] The Respondent's Disclosure is labelled R-1.

[13] The Respondent, at page 29 provided a table titled 2012 City of Calgary Northeast Suburban Office Vacancy Analysis, noting the mean vacancy rate was 10.65%, in support of the assessed vacancy rate of 11% that is being applied to all NE properties. The Respondent submitted the information was actual vacancy data provided on the Assessment Request for Information (ARFI). The Respondent argued that the Complainant had failed to provide any market evidence to show a further vacancy allowance is required to meet market value or that it has an effect on the overall value.

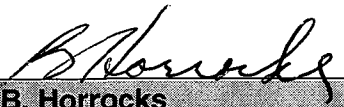
[14] The Complainant, in rebuttal (C-2) submitted there are 78 properties in the City of Calgary's NE study and of those 78 properties, there are only 6 that have a higher vacancy rate than the subject, and that is not typical.

[15] The Board finds the subject suffers from chronic vacancy and that a vacancy allowance increase from 11% to 25% is warranted, resulting in a Net Operating Income (NOI) of \$201,507, which when capitalized at a rate of 7.75% yields a total assessed value of \$2,600,097.

Board's Decision:

[16] The 2012 assessment is reduced to \$2,600,000.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF OCTOBER 2012.


B. Horrocks
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant 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;*
- (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 Administrative Use

Subject	Property type	Property Sub-type	Issue	Sub-issue
CARB	Office	Low rise	Income Approach	Vacancy allowance