

**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:**

***The Great West Life Assurance Company / Hoop Realty Inc. (as represented by Altus Ltd.), COMPLAINANT***

**and**

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

**before:**

***C. McEwen, PRESIDING OFFICER  
B. Jerchel, MEMBER  
R. Deschaine, 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 2011 Assessment Roll as follows:

**ROLL NUMBER: 067029199**

**LOCATION ADDRESS: 800 5 AVE SW**

**HEARING NUMBER: 64229**

**ASSESSMENT: \$58,100,000**

This complaint was heard on 21st day of July, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- D. Chabot

Appeared on behalf of the Respondent:

- R. Fegan

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

There were no jurisdictional or procedural matters raised.

**Property Description:**

The subject property is Trimac House, located on the west side (DT2) of downtown Calgary. The subject, constructed in 1983, is classified as A- for assessment purposes. The subject has 238,247 square feet of rentable area of which a small portion (3,710 square feet) is retail space.

**Issues:**

Is the subject property assessed higher than market value and is the subject assessment, therefore, inequitable to comparable properties? Specifically;

1. Should the office vacancy rate be adjusted to 14% because of chronic vacancy?
2. Should the retail vacancy rate be adjusted to 10% because of chronic vacancy?
3. Should the office rent rate be reduced to \$16?

**Complainant's Requested Value:**

\$45,290,000

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

The Complainant argued that the subject property suffered from chronic vacancy and, in support, provided a chart showing the office and retail vacancy levels for Trimac House from December, 2007 to December, 2010. The three year average office vacancy rate, calculated using the yearend rate, was 13.17%. The Complainant argued that the assessed vacancy rate of 9.5% understated the actual vacancy rate of the subject property. The chart's data was supported by CresaPartners AA/A Office Vacancy reports. The Complainant also argued that the typical retail vacancy rate of 8% understated the actual, chronic vacancy of the subject's retail space, a second floor cafeteria, which had been vacant for almost two years. The Complainant asked that an office vacancy rate of 13% and a retail vacancy rate of 10% be applied to the subject assessment.

The Respondent argued that the typical vacancy rate for DT2 A- class buildings was 7% and provided the city's 2011 Downtown Office Vacancy analysis and additional third party reports to support the typical rate. The Respondent further argued that the assessor had already adjusted

the subject vacancy rate to 9.25% to acknowledge the higher vacancy level within the subject building.

The Board accepts the application of a 13% vacancy rate to the subject assessment calculation based upon the actual three year performance of the subject building (13.2% average vacancy). The Board acknowledges the Respondent's efforts to adjust the subject assessment for the chronic vacancy issue within Trimac House, however, the 2.25% upward adjustment of the assessed vacancy rate is found to be somewhat arbitrary. Where did the number come from? Without any support for the adjustment, the Board finds for the Complainant in this matter.

The Complainant argued that the typical retail vacancy rate of 8% understated the actual vacancy rate of the second floor cafeteria space which had been empty since 2009. Attempts to lease the area have been unsuccessful as the space is specialized with little market demand for it. The Complainant requested a 10% vacancy rate for this space based upon a third level retail space in the Fifth & Fifth Building which the city assessed using a 10% vacancy rate.

The Respondent argued that the second floor space in Trimac House had been vacant for just over a year and, therefore, using the Respondent's own definition, was not considered chronically vacant. The Respondent also argued that the Complainant had not provided any details regarding the comparable property upon which the revised vacancy rate request was made.

The Board finds that the Complainant has not met onus in this matter. The subject retail space has not been vacant long enough to be considered chronically vacant and the Complainant's comparable property lacks sufficient detail to convince the Board that an equity issue exists. Consequently, the typical vacancy rate of 8% is accepted.

The Complainant argued that the office rent rate should be adjusted from \$19 per square foot to \$16 per square foot. In support, the Complainant provided two leases from 2009 and 2010. The Complainant argued that the leases demonstrated a drop from \$21 per square foot in 2009 to \$16 per square foot in 2010, a reduction of 24%. The Complainant further argued that the 2010 lease indicated the maximum rent rate Trimac House could achieve at the valuation date was \$16 per square foot. The Complainant also provided three comparable leases that indicated rent rates from \$15 per square foot to \$17 per square foot close to the valuation date.

The Respondent provided the 2011 Downtown Office Net Rental Rates that showed two rates for DT2 A-class space, \$23 and \$19 per square foot. The subject property was assessed at the lower rate. In addition, the Respondent provided the 2011 Downtown Office A- Class DT2 Rental Analysis from which the 2011 downtown office rates were derived. The analysis showed fourteen 2009 and 2010 leases taken from six A- class DT2 buildings including the two subject leases provided by the Complainant. The weighted mean of all the leases was \$22.56 per square foot. The weighted mean of the 2010 leases alone was \$19.78 per square foot. The Respondent also provided industry reports that indicated the average asking rate for A class buildings was \$23 per square foot during the valuation period.

The Respondent also argued that the inputs to the Income Approach to Value did not stand alone and that changing one input without regard to the remainder could lead to a flawed result.

In rebuttal, the Complainant provided five Income Approach Valuations for downtown properties that indicated identical cap rates but differing rent rates. The Complainant argued that the

evidence indicated the inputs of the Income Approach to value were not necessarily dependant; one could move without a subsequent change in the others.

The Board finds the typical rent rate of \$19 per square foot to be both fair and reasonable for the following reasons:

- The Respondent provides insufficient evidence for the Board to consider Trimac Place anything but typical for assessment purposes. Therefore, the Board finds the typical rent rate appropriate.
- The Respondent's lease comparables, which indicate a weighted mean of \$19.78 for 2010 leases, support the typical rent rate.
- The typical rent rate is further supported by third party analysis.
- The two subject leases, which both parties include in their evidence, also support the typical rent rate. The average rate of the two leases (\$18.50 per square foot) is very close to the assessed rate.

The Board accepts the inputs used by the city to calculate the subject assessment with the exception of the office vacancy rate which the Board finds to be 13%.

**Board's Decision:**

The assessment is reduced to \$54,370,000.

DATED AT THE CITY OF CALGARY THIS 10<sup>th</sup> DAY OF AUGUST 2011.



**C. McEwen**  
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
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.*