

**CALGARY
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 (the Act).

between:

***3rd Street Southwest Building Limited, as represented by Colliers International Realty
Advisors Inc., COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***S. Barry, PRESIDING OFFICER
E. Bruton, MEMBER
D. Morice, MEMBER***

This is a complaint to the Calgary 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:	068053008
LOCATION ADDRESS:	505 3 ST SW
HEARING NUMBER:	66472
ASSESSMENT:	\$34,350,000

This complaint was heard on the 29th day of August, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *C. Hartley, Colliers International Realty Advisors Inc.*
- *A. Farley, Colliers International Realty Advisors Inc.*

Appeared on behalf of the Respondent:

- *A. Czechowskyj, City of Calgary*

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

[1] There were no procedural or jurisdictional matters raised at the outset of the hearing. However, during the Parties' summaries, the Complainant objected that the Respondent was improperly introducing new evidence with respect to rents derived from the Assessment Request for Information (ARFI) obtained by the City on the subject property. The Board concurred, over the objections of the Respondent, that the issue of rents was new evidence and not a summary of evidence presented during the hearing. The Board did not hear the Respondent's comments on rents.

Property Description:

[2] The property under complaint is known as the Canada Trust Building and is located at 505 3 St. SW within the DT1 District. It is assessed as a B class building with a total assessable area of 142,033 square feet (sq.ft.) of which 135,297 sq.ft. is office space and 6,736 sq.ft. is retail space. The premises are assessed using the Income Approach to value.

Issues:

[3] The single issue to be decided is the correct vacancy rate. The property is assessed using a typical vacancy rate of 5 per cent. The Complainant requested that 10 per cent be used to more correctly reflect the trend to a higher rate of vacancy that has been increasing over time.

[4] There was no complaint with respect to the valuation method or with the value of any of the other components or variables used in the income approach.

Complainant's Requested Value:

[5] On the Complaint Form, the requested assessment was \$14,900,000. In the Complainant's disclosure document C1, this request was amended to \$31,140,000

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

[6] The Complainant provided extracts from rent rolls of the subject property with associated vacancies as follows:

July 1, 2008:	9.21%
December 1, 2009:	7.61%
July 1, 2010:	7.56%
January 1, 2011:	9.22%
July 1, 2011:	16.46%.

[7] It was his contention that these rates indicated a trend towards an increasing vacancy rate substantially higher than the typical rate of 5 per cent used by the City for the assessment.

[8] The Respondent provided the City's 2012 Downtown Office B Class Vacancy Equity Comparables and noted that the 2011 vacancy reported by the Complainant/Owner was 5.73% as per an Assessment Request for Information (ARFI) filed on April 26, 2011. The Complainant countered that the April 15 rent roll that accompanied the ARFI showed two leases due to expire on April 30 of 2011 and the July 1, 2011 rent roll confirmed that those spaces were vacant.

[9] The Board must consider the market value of the property as of July 1, 2011 as derived in accordance with the Act and the Regulations. Vacancy would have an impact on that value but the vacancy history of the subject does not support the contention that there is a prolonged and consistent vacancy problem. Nor are we able to determine from the evidence provided if these vacancy rates were inconsistent with the assessed vacancy rates for the specified years.

[10] There are certainly blips in the rates but the Board noted there was a decrease in the rate from July 1, 2008 through July 1, 2010 and, most recently, another decrease from January 1, 2011 to the reported vacancy on the April 2012 ARFI. Before determining that an additional negative value of 5 per cent be applied to the assessment, the Board would need to see such a rate sustained for more than two months.

[10] Accordingly, the Complaint is denied.

Board's Decision:

The 2012 Assessment is confirmed at \$34,350,000

DATED AT THE CITY OF CALGARY THIS 7 DAY OF SEPTEMBER 2012.


S. Barry
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's 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

Decision No.: 1642/2012-P		Roll No.: 068053008		
Subject	Property Type	Ppty Sub-type	Issue	Sub-Issue
CARB	Office	High Rise	Vacancy	