

**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:

***4087836 Canada Ltd., 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:	068109305
LOCATION ADDRESS:	301 8 AV SW
HEARING NUMBER:	65945
ASSESSMENT:	\$12,070,000

This complaint was heard on the 28th and 29th days 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 Advisors Inc.*
- *A. Farley, Colliers International Advisors Inc.*

Appeared on behalf of the Respondent:

- *A. Czechowskyj, City of Calgary*

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

[1] The Respondent objected to the inclusion of pages 49 of 163 through 68 of 163 on the basis that it related to an industrial parcel not referenced in the Respondent's disclosure document R1. The Board directed that the issue be dealt with when Rebuttal was presented.

[2] During the Rebuttal, the Complainant clarified that all of pages 49 of 163 through 123 of 163 of the Complainant's Rebuttal document C3, were the full Respondent disclosure document presented to another Composite Assessment Review Board (CARB) at a previous and unrelated hearing. In order to determine the relevance of the material, the Board asked the Complainant to present the full Rebuttal and to note at the appropriate parts where he felt it was relevant to R1. The Complainant argued that the disputed package was included to rebut the Respondent's position on using the income approach versus the direct comparison approach and with the City's stated position on third party report reliability.

[3] It was the Board's decision, upon the conclusion of the Rebuttal presentation, that it was a direct rebuttal to the City's R1 presentation and that none of the disputed pages would be excluded from consideration.

[4] At the beginning of his presentation, the Respondent asked to submit a Land Titles Transfer document in support of the sale of Bankers Hall. In that it had not been disclosed pursuant to s. 8(2)(b) of *Matters Relating to Assessment Complaints Regulation* AR 310/2009 (MRAC), the Board did not accept the document.

Property Description:

[5] The property under complaint is located at 301 8 Av SW, in the DT1 district. Known as the Hollingsworth Building, it was constructed in 1912 and is considered to be a Heritage building. The City has classed it as an A building and it has been assessed using the Income Approach to value. It has 6 stories with a total assessable area of 42,353 square feet (sq.ft.) of which 36,965 sq.ft. is office space assessed at \$22 per sq.ft. The remaining 5,388 sq.ft. is below grade retail space assessed at \$16 per sq.ft. A capitalization rate (cap rate) of 6.75 per cent has been applied to the Net Operating Income (NOI).

Issues:

[6] The following issues were presented for the Board to decide:

1. Is the subject property appropriately classed as an A2 building or should it be treated as A- quality?
2. Should the assessed rental rates of \$22 per sq.ft. be reduced to \$18 per sq.ft.?
3. Should the cap rate be increased from 6.75 per cent to 7.0 per cent?

[7] For clarity on the disputed components for the various building classifications, please see the chart in para 11 below.

[8] 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:

[9] The Complainant requested that the assessment be revised to \$9,650,000

Board's Decision in Respect of Each Matter or Issue:**Issue 1: Building Classification**

[10] There was considerable confusion about the nomenclature as it applies to building classification. In the end, the Parties agreed that, with respect to the DT1 district:

A buildings can be either A (New), A (Original) or A-

A2 is a computer notation that applies to A (Original) and, perhaps, A (New)

A2 is not AA or A-

In reference to the subject assessment, A2 means A (Original)

[11] Issue components:

Item	A (City value)	A- (City value)	B (City value)	Requested Value
Building Class	A			A-
Rent Rate	\$22	\$20	\$19 or \$15	\$18
Cap Rate	6.75%	6.75%	7.5%	7.0%

[12] The Complainant argued that, in 2011, a previous CARB decision (1944/2011-P), changed the assessed classification of the subject (Hollingsworth) from AA to A-, based, to some extent, on its comparability with the Royal Bank Building (RBC). Hollingsworth is attached

to Bankers Hall on the east and RBC is attached to Bankers Hall on the west. All three buildings are under the same ownership.

[13] City assessment and other records contained in the Complainant's C2 disclosure document showed that RBC is a 24 storey building containing 318,457 sq.ft. of assessable space. It was constructed in 1969 and was assessed in 2012 as an A- class building using typical A- values. It is in close proximity to Hollingsworth.

[14] The Complainant relied on the material in CARB 1944/2011-P for their present position on Hollingsworth but did not provide the evidence package or disclosure documents that were available to that Board. Additionally, the Complainant stressed that Hollingsworth has a small floor plate and lack of parking which, he contended, was a disadvantage for office rentals and was only six stories in height unlike most office buildings in the DT1 area. He noted that there had been no physical or economic changes to Hollingsworth that would justify changing the building classification to A from the A- designation applied by the CARB in the previous year.

[15] The Complainant pointed to its dissimilarity even with other A- buildings by reference to a set of pictures which portrayed a variety of high rise office towers throughout the downtown.

[16] The Respondent noted the renovations that had occurred in Hollingsworth at the time of the Bankers Hall construction and the way it had been integrated into the facade of the latter. The majority of his argument on classification related to economic performance and is dealt with below.

[17] The Board's determination of the building classification issue will be dealt with in conjunction with Issue 2.

Issue 2: Reduction in Assessed Rent Rates

[18] The Complainant provided an equity rental rate chart for 2012 downtown, A- offices. He advised that the chart was developed from the City's rent rate study but excluded renewed leases and leases that were for less than 3 years on the basis this provided more reliable evidence of economic performance and that shorter leases were not typical of A buildings. His data calculated median A- rents of between \$18 and \$19.50. Depending on which leases were excluded or which lease periods were used, he contended this analysis best supported the requested rate of \$18.

[19] The Respondent noted that the requested rent rate was not the assessed rate for A- but fell within the B class category.

[20] As well, he pointed to the very favourable, long term leases as demonstrated in the Assessment Request for Information (ARFI) and the Bankers Hall rent roll which included Hollingsworth. The majority of the Hollingsworth leases are with a single tenant and range from \$20 to \$40 per sq.ft. commencing in 1989 and extending for 64 years. There were also three more recent leases, two starting in 2006 for \$35 per sq.ft. for 6 years with a 5 year renewal option and another on March 1, 2011 for \$33.41 per sq.ft. for 15 years.

[21] The Respondent provided equity tables intended to support the rental rates for both A and A- buildings along with extracts from some rent rolls. He noted that the most recent 5

leases in the Class A chart produced a weighted average of \$21.74 per sq.ft. and that recent leasing in April and July of 2011 in RBC was achieving \$23 per sq.ft.

Board Decision and Reasons:

[22] The Board did not support the request to reclassify the premises to A- nor did the Board agree that the assessed rental rate should be reduced to \$18.

[23] The Board notes that, in the first place, neither Party provided a written, or even clear, description of the objective criteria on which a building's classification could be measured. Recognizing that some subjectivity would be involved in assessing relative merits, there was no definitive list of the aspects of a building that would be or could be consulted in making a determination.

[24] Hollingsworth is a unique and distinctive building. It is not comparable, in its physical characteristics, to any other office building in the downtown that was brought to the Board's attention. However, there was no evidence before the Board, only conjecture, that its unique character does or will adversely impact its performance in the market place.

[25] The Complainant requested an adjustment to an A- class building but requested B class rents. He argued that the closest A- comparable to Hollingsworth was RBC and yet the rents reported for both Hollingsworth and RBC meet or exceed those assessed for A- as well as A buildings. The Board found no justification to reduce the rent rate to the requested value.

Issue 3: Capitalization Rate

[26] The Complainant argued that his cap rate methodology, based on the sale of 50 per cent of the interest in each of two A class sales that occurred in April and September of 2011, supported his request to increase the rate. The calculations created a 100 per cent equivalency and resulted in a cap rate of 7.36 per cent for one property (Gulf) and 5.07 per cent for the other (Scotia). The Complainant discarded the lower rate as being outside reasonable market expectations and rounded the remaining rate to 7 per cent. The rental rates for Scotia were drawn from the City's 2012 Class A rent equity comparables. The rental rates from Gulf were drawn from a City document headed 2012 Gulf Canada Square Rent Comparables.

[27] The Complainant's request fell between the City's assessed B class rate of 7.75 per cent and the A class rate of 6.75 per cent.

[28] The Respondent noted that there were, in fact, three sales to consider in that there were two Scotia sales one which produced a cap rate of 7.36 per cent and another that produced a cap rate of 6.02 per cent. His calculation of Gulf resulted in a 6.39 per cent rate. This produced a rate, based on the three sales, of 6.69 per cent.

Board Decision and Reasons:

[29] The Board did not increase the cap rate as requested.

[30] There was much discussion and little clarity in the distinction between the methodologies

used by the Parties. A detailed cap rate study was not in evidence. Neither Party provided a detailed analysis supported by the complete rent rolls specific to the buildings in question along with the related vacancy rates or operating costs. With so few sales, three between two buildings, it was not possible to adequately weigh the two arguments.

[31] However, inasmuch as the cap rate is, to some extent, a measure of risk, a ratio between the sales price and income, then the Board can find no compelling reason to adjust the cap rate upward for these premises. The Board has already found that the rents in place are high and of long duration. The Board did not allow for a reduction in the assessed rental rates and can find no evidence that the assessed cap rate is inadequate to properly express the income to market value ratio.

Board's Decision:

The 2012 Assessment is confirmed at \$12,070,000

DATED AT THE CITY OF CALGARY THIS 18 DAY OF SEPTEMBER 2012.


S. Barry
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1A	Complainant's Disclosure Part A
2. C1B	Complainant's Disclosure Part B
3. C2	Complainant's Disclosure Additional Information
4. R1	Respondent's Disclosure
5. C3	Complainant's 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 MGB Administrative Use Only

Decision No.: 1643/2012-P		Roll No.: 068109305		
Subject	Property Type	Ppty Sub-type	Issue	Sub-Issue
CARB	Office	High Rise	Income Approach	Bldg Quality Rental Rate Cap Rate