

**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:**

***Dundee Canada (GP) Inc. (as represented by Colliers International Realty Advisors Inc.),  
COMPLAINANT***

**and**

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

**before:**

***W. Kipp, PRESIDING OFFICER  
I. Fraser, MEMBER  
J. O'Hearn, 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:

<b>ROLL NUMBER:</b>	<b>071 133 508</b>
<b>LOCATION ADDRESS:</b>	<b>112 – 28 Street SE, Calgary AB</b>
<b>HEARING NUMBER:</b>	<b>61412</b>
<b>ASSESSMENT:</b>	<b>\$3,290,000</b>

This complaint was heard on the 9<sup>th</sup> day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- C. Hartley and A. Farley

Appeared on behalf of the Respondent:

- Christina Neal

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

There were no procedural or jurisdictional matters to deal with so the hearing proceeded directly to merit argument and evidence.

**Property Description:**

The property that is the subject of this assessment complaint is a two storey office building located in the Franklin community. The 2.55 acre lot is improved with the building which contains 47,400 square feet of offices and 2,666 square feet of storage space. There are surface parking lots around the building. Year of building construction was 1978.

Although the property has a southeast address, it is considered to be a part of the northeast market area for assessment purposes. This property has been assessed using an income approach to value wherein typical inputs are \$12.00 per square foot rent for office space, \$3.00 per square foot rent for storage space, 12% annual vacancy allowance, \$12.50 per square foot operating cost, 2% non-recoverable expense allowance and an 8.75% capitalization rate. The calculated assessment is \$4,826,651 (\$96.41 per square foot of building area, however there is a portion of the property that is exempt, leaving a 2011 assessment truncated to \$3,290,000.

**Issues:**

The Assessment Review Board Complaint form, filed March 2, 2011 had Box 3 (Assessment amount) checked in Section 4. An attachment to the form listed numerous grounds for the complaint. At the hearing, however, the Complainant stated that the only issue to be resolved by the Board is the office rental rate. The assessment is based on a \$12.00 per square foot rate however the subject property rent roll shows that a \$10.00 per square foot rate would be applicable.

**Complainant's Requested Value:** \$2,662,298 after allowance for the exempt portion

**Party Positions on the Issue:**

**Complainant's Position:**

The Complainant stated at the outset that this was not an argument about the classification of the subject property. The evidence shows that the actual rents being achieved from the two building tenants average \$9.75 per square foot.

A rent roll for the property, effective December 1, 2010 shows three building areas leased to Alberta Health Services. All three areas were occupied by this tenant since June 1, 2000 but the leases were renewed with a commencement date of November 27, 2010 for terms of 34 months at a rent rate of \$11.00 per square foot. The Complainant conceded that the 2,666 square feet of storage space are also leased at a rate of \$11.00 per square foot. The other tenant, Community Living Alternative, occupies one 12,534 square foot area by a lease with a 10 year term that commenced November 1, 2010. The rent rate is \$6.00 per square foot.

There is one main floor vacant space of 2,443 square feet representing 4.83% of total floor area. Note: Total area according to the rent roll is 50,577 square feet whereas the assessment is based on a total area of 50,066 square feet.

The conclusion drawn by the Complainant is that the subject building does not perform as a Class "B" suburban office building. The actual rents confirm this conclusion.

**Respondent's Position:**

Firstly, the Respondent addressed the manner in which assessments are to be made in Alberta. The legislation requires that assessments are to reflect the market value of property. Those assessments must be based on market value of the fee simple estate using mass appraisal and reflecting typical market conditions for properties similar to the one being assessed.

Next, the Respondent explained the timing for making the subject assessment. The information provided by the property owner through the Assessment Request For Information (ARFI) process would have been received by the Respondent in early 2010. That information would then be considered in making the assessment which must have an effective valuation date of July 1, 2010. The rent roll in the Complainant's evidence brief was as at December 2010 and therefore would not have been available to the Respondent at the time of making the assessment.

The subject property, like all others in its class, is assessed on the basis of typical rent rates, vacancy rate, operating cost rate and non-recoverable operating cost rate. The resulting net operating income based on "typical" is then converted to a value estimate by use of a capitalization rate that has been extracted from an analysis of market sales of similar properties.

The only input factor being contested in this complaint is the office rent rate, therefore there is no evidence relating to vacancies, operating costs or capitalization rates. The Complainant has accepted that those input factors are correct. Further, it is apparent from the rent roll that one tenant is paying \$11.00 per square foot for area the assessor deems as storage space.

In support of the office rent rate, the Respondent provided a list of lease transactions that occurred in Class "B" buildings between the dates of July 1, 2009 and June 1, 2010. Included in that list was a prior lease on the 12,534 square foot space in the subject building that is now leased to Community Living Alternative. Based on information in the ARFI that was available to the Respondent at the time of making the assessment, that space was leased at a rent rate of \$17.00 per square foot where the lease commencement was July 1, 2009. No other detail was provided.

From the sample of 28 leases which ranged from 274 square feet to 22,038 square feet and wherein rent rates were from \$9.00 to \$17.00 per square foot, the median average rent rate was \$12.00 per square foot, the mean average was \$12.11 per square foot and the weighted mean average was \$12.71 per square foot. It was argued that this rent analysis supports the \$12.00 per square foot rate used in making the assessment.

**Board's Decision:**

The 2011 assessment is confirmed at \$3,290,000 (Non-exempt portion)

**Reasons for the Decision:**

The Board noticed some lines in the Complainant supplied rent roll that were not explained during the hearing. Firstly, it is noted that the operating cost is \$14.74 per square foot for one tenant but only \$10.73 per square foot for the other tenant. Both tenants appear to be paying \$2.74 per square foot toward property taxes. Total occupancy costs show in the rent roll as \$28.03 to \$28.24 per square foot for Alberta Health Services and \$20.93 per square foot for Community Living Alternative. There is nothing in this roll that suggests any relief to any tenant because of the exempt status that reduces the assessment by \$1,530,000.

The new leases in the property for over 95% of the floor area became effective in November 2010. The effective valuation date is July 1, 2010 and the assessor only had information available up to July 1. The Municipal Government Act (Section 289(2)(a)) requires the assessment to reflect the characteristics and physical condition of the property on December 31<sup>st</sup>. The November leasing is therefore to be considered.

The Respondent's lease data in evidence before the Board comprises 28 lease transactions that occurred prior to July 1, 2010. That lease information leads to the "typical" office rental rate of \$12.00 per square foot. The actual leases in the subject property had commencement dates in November, 2010 and the \$11.00 and \$6.00 per square foot rates lead the Complainant to the \$10.00 per square foot that was requested for the assessment. There is no evidence that suggests that the rent rate as at July 1, 2010 should have been around \$10.00 per square foot. There is no market evidence that shows that \$10.00 per square foot was the "typical" rent rate as at November 2010. There is no evidence that shows whether there was any change in the market between July and November 2010.

\$12.00 per square foot is the "typical" rent rate applied to the subject property. That rate is supported by the Respondent with a sampling of 28 lease transactions that had commencement dates within the valuation year leading up to July 1, 2010. The \$10.00 per square foot rate for one tenant in the subject property is within the market lease data range of \$9.00 to \$17.00 per

square foot. Although the Respondent did not challenge the \$6.00 rate for the other tenant in the subject, it does appear to be an outlier and therefore does not sway the Board.

The Board is faced with deciding whether the property assessment is reflective of market value. In that regard, it is noted that the net operating income upon which the assessment is based is \$422,332. Based on the information in the December 2010 rent roll (actual lease rents and actual vacancy) plus the typical operating cost rate of \$12.50 and the non-recoverable cost rate of 2.0%), the actual net operating income is of the order of \$419,500, only slightly less than the amount used in the assessment. When capitalized at 8.75%, the two values are very close.

The conclusion drawn by the Board is that there is no compelling evidence to support any change in the assessment which is therefore confirmed at \$3,290,000 (non-exempt portion).

DATED AT THE CITY OF CALGARY THIS 17 DAY OF August 2011.

  
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W. Kipp  
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.*