

**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:

Second Real Properties Ltd. (as represented by Colliers International Realty Advisors Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***T Golden PRESIDING OFFICER
R Roy MEMBER
G Milne 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:	067048108
LOCATION ADDRESS:	700 6 AV SW
FILE NUMBER:	65964
ASSESSMENT:	\$29,570,000.00

This complaint was heard on 21 day of September, 2012 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:

- A. Farley

Appeared on behalf of the Respondent:

- E. Borisenko

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

[1] There were no procedural matters.

Property Description:

[2] The subject property is a 22 storey B class high rise office building. A total rentable area is reported at 225,800 square feet made up of mostly office and retail uses with some underground parking. This 1968 building is assessed on the income approach at \$131.00 per square foot (sq ft).

Issues:

[3] 1. Is the rental rate of \$14.00 sq ft the appropriate rental rate to use in the income approach?

[4] 2. Does the 14% vacancy rate used in the income approach represent the applicable vacancy rate?

Complainant's Requested Value: \$21,880,000.00

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

[5] 1. The rental rate of \$14.00 sq ft is the appropriate rental rate to use in the income approach.

[6] The Complainant argued that the subject building is ageing and lacks adequate parking to attract typical B class rents. With respect to the rental rate the Complainant presented a table entitled "B" class Rent Equity Comparables. This table was based on the information used by the Assessment Department to determine rental rates for B class buildings. The Complainant argued that certain of these leases should be excluded when considering the assessment of the subject property. Leases from 4 properties were excluded as they were in buildings that in the opinion of the Complainant were marketed differently than the subject. For example the

structure at 906 8 AV SW is a B class office that was fully renovated and leased entirely by the University of Calgary and entirely dissimilar to the subject property. Also all leases less than three years in duration were removed from the Complainant's analysis as this term was understood to be non-typical for leases. Using the remaining leases a median value of \$13.00 per sq ft was calculated for the property.

[7] The Respondent questioned the reasons for removing the various leases suggesting the original list of leases represented typical. The Respondent explained to the Board how the lease rate was established. The Assessment Department used the leases for all "B" class buildings and found the median value of all leases to be \$13.50 per sq ft and the median of 2011 leases was \$14.00 per sq ft.

[8] The Board considered the Complainant's list of comparables and the reasoning for excluding various leases from those that the Respondent used as the basis for the assessment. By excluding certain leases the calculation resulted in a reduction of the assessment. However the Complainant failed to provide market evidence to demonstrate why the various leases should be excluded. There is no evidence that leases less than three years in length should be excluded from the list of comparables. It was not clear to the Board that the 4 buildings that were excluded from the calculation were not typical "B" class office structures. The evidence presented by the Complainant appeared to be opinion and lacked support.

[9] The Board was not convinced that the list of comparables used by the respondent contained significantly dissimilar buildings based on the information provided by the Complainant.

[10] 2. The 14% rental rate used in the income approach is the applicable vacancy rate.

[11] The Complainant argued a vacancy rate of 20% was more representative of the actual vacancy experienced by the subject property over a long period of time. To support the request, rent rolls for 2010 and 2011 were presented. The vacancy rate in 2010 was 21.26% and in 2011 vacancy was 21.3%. For the year 2009 two items of evidence were submitted; firstly a Colliers report regarding vacancy was provided indicating a 21.2% vacancy and secondly an advertisement showing 21.3% vacancy.

[12] The reason for the vacancy was surmised by the Complainant to be a lack of underground parking available in the structure compared to other B class buildings in the downtown area.

[13] The respondent presented the equity chart for the vacancy rates of DT2, B class office buildings indicating that all such buildings were given a vacancy rate of 14%. The Assessment Department does not recognize the concept of chronic vacancy rather suggests that the reason for higher vacancy is incorporated in the building condition factor. A rent roll for the subject property dated July 16 2012 was introduced by the Respondent as an indication that the vacancy was not chronic. This roll indicated a 2% vacancy at that date.

[14] The Board is of the opinion that a chronic vacancy can occur in a structure and that the reason for the vacancy may not be captured in the factors used by the Respondent to calculate the assessment. The Board is persuaded to use three years of records to assess the vacancy to determine if it is chronic and specific to the subject property. In this case the Board is not convinced that the Complainant has demonstrated a chronic vacancy. The Board notes the

dates of the Assessment Request for Information (ARFI) are January 1 2011, July 1 2010 and January 26 2010. ARFI documents indicate the rent status as of that date. The 3 ARFI's presented represent specific vacancy for a period of less than one year and are 6 months prior to the assessment date and do not indicate a chronic vacancy issue.

[15] The Complainant's evidence for the year 2009 consists of a table titled Tenant Roll December, 2009-Office and appears to be a summary of a rent roll prepared by Colliers International for some other purpose than this appeal. A second supporting item of evidence is a 2009 reality listing for the subject property. The Board was of the opinion that the actual rent roll is better evidence of the vacancy.

[16] There was insufficient reliable vacancy data to establish a chronic vacancy pattern. In addition the Board finds the post facto rent roll provided by the Respondent supports the Board decision.

Board's Decision:

[17] The assessment is confirmed at \$29,570.000.00

21.2

DATED AT THE CITY OF CALGARY THIS 26th DAY OF Oct 2012.



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.*

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	office	High rise	Income Approach	Market rent, vacancy