

**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:

***DPD Equity Corp. (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:	201046000
LOCATION ADDRESS:	736 1 AV NE
FILE NUMBER:	66211
ASSESSMENT:	\$4,790,000.00

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 13,700 square feet (sq ft) "A" class multiple tenant office and retail building constructed in 2007. The location is north of the river in the Bridgeland area near the downtown and is designated C-COR-1. The income approach was used to assess the property and the calculation included 20 under ground parking stalls.

Issues:

- [3] 1) Is the rental rate of \$21.00 sq ft the appropriate rental rate to apply to the subject property?
- [4] 2) Should the retail portion of the assessment be reclassified to office and receive the office rental rate?

Complainant's Requested Value: \$3,810,000.00

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

- [5] 1) The rental rate of \$21.00 sq ft is the appropriate rental rate to apply to the subject property?

[6] The Complainant argued that the appropriate rental rate to be applied to the subject property is \$18.99 per sq ft. This request is based on a July 31 rent roll. Four areas of the building are leased to individual tenants and a portion of the main floor is the subject of a lease beginning January 1 2011. This new lease is at a rate of \$18.00 per sq ft and in the opinion of the Complainant the best lease that the owners could attract in this location. This new lease rate is the basis of the requested rental rate.

- [7] The Respondent presented a table of leases in 3 other "A" class office buildings that, in

their opinion, were similar to the subject property. These leases had rental rates between \$19.50 per sq ft for a 15,961 sq ft area and two leases at \$22.18 per sq ft for 5915 sq ft and 7417 sq ft in size. The median value of these leases was \$21.50 per sq ft supporting the current assessment.

[8] An equity chart of comparable buildings and assessed lease rates was presented to the Board to demonstrate that all similar buildings to the subject were assessed fairly.

[9] The subject property sold in 2009 for \$6,000,000.00 at which time the City sent out an assessment request for information. In response the owner noted that the anchor tenant on the main floor had declared bankruptcy and a significant portion of income was lost. The tenant occupied the main floor. The Respondent suggested that this may be the reason for the seemingly lower lease rate for the main floor.

[10] The Board noted that the rent roll evidence of the Complainant was post facto to the assessment date although the new lease was within the assessment period. The new lease seemed to be much less than the \$29.00 per sq ft to \$31.00 per sq ft rates of the second floor tenants. The Board was not willing to vary the rental rate used in the income approach based on only one lease that may not be typical for these types of structures or the subject property. The rental rate information provided by the Respondent was not challenged and the Board notes that the leases signed for \$22.18 per sq ft were of a similar size to the new lease in the subject building which also supports the assessment. The Respondent provided the best evidence available to the board.

[11] 2) The retail portion of the assessment should be reclassified to office and receive the office rental rate.

[12] The Complainant suggested that the main floor area had no retail uses. The space was vacant for a period of time however the previous tenants appeared to be an investment firm and more similar to office than retail in nature. No information was available regarding the new tenant and the planned use of the main floor of the subject property. The Complainant had not visited the site.

[13] The Respondent who also had not visited the site was not sure of the use of the main floor however was aware of a development permit application to establish a medical imaging practise in the leased space. In this assessment area of the City the actual use is taken into account when assessing a building either retail or office, unlike the downtown where all main floor space is classed retail.

[14] The Board reviewed the photos of the structure taken at the time when it was occupied and agreed with the Complainant that the use occupying the main floor at the time was likely office and not retail given the lack of retail signage. The board noted the previous tenant was Signature Capital and determined that this business was more office than retail. The decision to class the main floor office area was supported by the weak evidence from the Respondent that the new tenant was possibly a medical establishment and the Board considers this to be an office use.

[15] The entire building should be assessed as office at the rate of \$21.00 per sq ft.

Board's Decision:

[16] The assessment is reduced to \$4,300,000.00

DATED AT THE CITY OF CALGARY THIS 5 DAY OF November 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