

**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:

**Westwinds Corner Ltd.
(as represented by Altus Group Ltd.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
R. Deschaine, MEMBER
I. Fraser, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of the annual property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	200478584
LOCATION ADDRESS:	3690 Westwinds Drive NE
HEARING NUMBER:	67922
ASSESSMENT:	\$7,650,000

The complaint was heard on September 24, 2012, in Boardroom 9 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- K. Fong

Appeared on behalf of the Respondent:

- R. Farkas

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description:

The subject property is a 148,439 sq.ft. (square foot) parcel of land, improved with three retail structures that form part of a shopping centre development known as Westwinds Corner. The improvements exhibit the following attributes:

Improvement Type	Quality	Year of Construction	Area (Sq.Ft.)
Automotive Services	A2	2008	10,373
Retail Pad (Bank)	A+	2009	6,349
Retail (Multi-tenanted)	A2	2008	11,627

Issues:

The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment amount
4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter # 4, and led evidence and argument only in relation to matter #3, an assessment amount. The Complainant set out six grounds for the complaint in section 5 of the complaint form with a requested assessment of \$6,500,000; however, at the hearing, only the following issue was before the Board:

- Is the \$45.00 per sq.ft. market rent coefficient assigned to the subject's retail bank premises, correct and equitable in relation to similar properties?

Complainant's Requested Value:

At the hearing, the Complainant requested an assessment of \$6,740,000.

Complainant's Position

[1] The Complainant argued that the \$45.00 per sq.ft. market rent coefficient applied to the subject's 6,349 sq.ft. retail bank premises is excessive in relation to typical lease rates of similar and competing properties, and excessive in relation to the subject's current contract rent rate. Further, the Complainant argued that the \$45.00 per sq.ft. market rent coefficient is inequitable in relation to the market rent coefficients applied to similar and competing properties.

[2] In support of the argument, the Complainant provided a summary of four northeast Calgary retail bank leases with commencement dates from March 2009 and August 2010. The lease areas range from 3,385 to 10,694 sq.ft., and exhibit contract rent rates ranging from \$27.00 to \$46.00 per sq.ft., with median and mean lease rates of \$31.30 and \$33.90 per sq.ft., respectively. One of the four leases was the March 2009 lease of the subject's retail bank premises at a contract rent rate of \$34.00 per sq.ft.

[3] The Complainant provided the Board with LARB 0484/2012-P in respect of the 2012 business assessment complaint of the subject's bank premises, and submitted that the Respondent's representatives in that matter agreed with the Complainant's requested net annual rental value of \$31.00 per sq.ft.

[4] The Complainant further provided the Board with CARB 1752/2011-P, and submitted that the Board in that matter found that "there is no apparent relationship between the age of the building and the rents achievable", in respect of bank premises.

[5] In support of the equity argument, the Complainant provided a summary of six northeast Calgary retail bank premises that are assessed with a \$33.00 per sq.ft. market rent coefficient. The properties are rated as quality A2, A-, B+, or B, and range in area from 4,629 to 10,649 sq.ft. The Complainant argued that one of the six comparable assessments is an ATB Financial bank, located on an adjacent parcel of land that forms part of the same shopping centre as the subject property; and although the property shares an identical A2 quality rating by the Assessor, the assessed \$33.00 per sq.ft. market rent coefficient is 26.7% lower than that of the subject at \$45.00 per sq.ft.

Respondent's Position

[6] In response to LARB 0484/2012-P provided by the Complainant, the Respondent submitted that the City was barred from presenting its evidence in that matter as a result of an objection by the Complainant pursuant to s.5(2) of *Matters Relating to Assessment Complainants Regulation*, AR 310/2009.

[7] The Respondent argued that the subject's \$45.00 per sq.ft. market rent coefficient is correct and equitable. The Respondent submitted that retail bank premises are stratified by year of construction, and an analysis yielded the following mean and median lease rates, and market rent conclusions:

Year of Construction >	2008 and Newer	1990 – 2007	1989 and Older
Leases Analyzed	17	15	19
Mean	\$44.31	\$33.91	\$25.41
Median	\$45.00	\$33.00	\$25.92
2012 Assessed Rate	\$45.00	\$33.00	\$25.00

[8] In support of the stratification and market rent conclusions, the Respondent provided a summary of the particulars of the individual leases analyzed for each stratum above.

[9] In response to the Complainant's six equity comparables assessed at a \$33.00 per sq.ft. market rent coefficient, the Respondent provided a summary of the properties indicating that all of them were constructed between 1999 and 2007, and therefore they would be appropriately valued with a \$33.00 per sq.ft. market rent coefficient by way of the Assessor's methodology, whereas the subject property was constructed in 2008, and is therefore appropriately valued with a \$45.00 per sq.ft. market rent coefficient.

[10] In response to the Complainant's four retail bank leases, the Respondent provided a summary illustrating each property's year of construction, and assessed market rent coefficient as set out below:

Tenant	Shopping Centre	Area	Year of Construction	Lease Rate	Assessed Rate
BMO (Subject)	Westwinds Corner	6,349	2008	\$34.00	\$45.00
Royal Bank	Saddletowne Crossing	3,385	2009	\$46.00	\$45.00
CIBC	Sunridge Corner	10,694	1999	\$28.60	\$33.00
Rpyal Bank	McKnight Village	5,785	1990	\$27.00	\$33.00

[11] In cross examination, the Respondent conceded that he was unsure if the properties located at 5255 Richmond Road SW and 417 10 Street NW were renovated properties, and older than actually indicated. In response to questions from the Board, the Respondent agreed that the analysis includes no leases of properties constructed in 2006, 2007 or 2008 to confirm the Assessor's 2007 / 2008 demarcation line, and conceded that properties built in 2006, 2007 or 2008, could go either way in the stratification.

[12] In argument, the Complainant submitted that the stratification of bank premises exclusively by year of construction, fails to consider more relevant factors such as a property's location. The Respondent argued that of the twelve northeast bank leases in the Respondent's analysis, only 1 lease exhibits a rent rate over \$38.00 per sq.ft., and the range of the remaining 11 leases is \$24.00 to \$37.57 per sq.ft., regardless of the year of construction.

[13] In response, the Respondent argued that there was no evidence provided to demonstrate that the stratification of bank premises based on year of construction is inappropriate, and the assessments have been equitable prepared on that basis.

Decision:

[14] The Board finds that there was insufficient evidence to demonstrate that the \$45.00 per sq.ft. market rent coefficient assigned to the subject's retail bank premises is incorrect or inequitable in relation to similar properties.

[15] While the Board has significant concern about the evident "overlap" of lease rate ranges amongst the stratifications which lend support to the Complainant's position, and the absence of data to support the Respondent's 2007 / 2008 demarcation line, the Complainant's northeast Calgary bank lease evidence is inconclusive in respect of establishing a typical lease rate for the subject property. The Board notes that the Complainant's 2008 and 2009 properties exhibit an average lease rate of \$40.00 per sq.ft., while the 1990 and 1999 properties exhibit an average lease rate of \$27.80, which lends support (to some degree) to the Respondent's stratification criteria.

[16] In respect of the equity issue, as the assessment has been prepared equitably by means of the Respondent's formula, and there is inconclusive compelling market evidence to demonstrate that the formula is inaccurate, the Board accepts that the subject's assessment is equitable in relation to the assessments of similar properties.

The assessment is **CONFIRMED** at: **\$7,650,000.**

DATED AT THE CITY OF CALGARY THIS

13th

DAY OF NOVEMBER, 2012.


J. Krysa
Presiding Officer

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

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

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 ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Strip Shopping Centre	Income Approach	Market Rent: Bank