

**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:**

***Healthcare Properties Holdings Ltd. (as represented by MNP LLP), COMPLAINANT***

**and**

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

**before:**

***I. Weleschuk, PRESIDING OFFICER***

***H. Ang, MEMBER***

***D. Morice, 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:

<b>ROLL NUMBER:</b>	<b>111180204</b>
<b>LOCATION ADDRESS:</b>	<b>1016 68 Avenue S.W.</b>
<b>HEARING NUMBER:</b>	<b>65808</b>
<b>ASSESSMENT:</b>	<b>\$8,160,000</b>

- [1] This complaint was heard on 17<sup>th</sup> day of September, 2012 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- G. Worsley
- W. Van Bruggen

Appeared on behalf of the Respondent:

- M. Ryan
- L. Dunbar-Proctor

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

- [2] There were no procedural or jurisdictional matters raised by either party. Neither party objected to the panel before them. The merit hearing proceeded.

**Property Description:**

- [3] The subject property is located at 1016 68 Avenue SW, in the Kelvin Grove District, southwest of the intersection of Glenmore Trail and Elbow Drive S.W., but has no direct exposure to either major roadway. The property is a 1.99 acre site. The improvements consist of an office building built in 1976 with a total assessed area of 53,871 square feet (SF) on two levels (average floor plate of 26,900 SF). It is zoned "Commercial-Office" and is a Class B building. Parking is on the surface lot around the subject building. The property was formerly occupied for many years by United Farmers of Alberta as a single tenant. It was totally renovated beginning in 2009 to allow for multiple tenants and is now known as the Rockyview Health Centre II. Tenants began to move into the building in August 2010.
- [4] The property is assessed as "southwest medical/dental office space" using an income approach, with 53,871 SF of office space assessed at a rental rate of \$14.00/SF, with an 8% vacancy rate, \$12.50/SF operating costs, 1% non-recoverable rate and 7.75% capitalization rate. The total 2012 assessment is \$8,160,000 as indicated in the 2012 Property Assessment Notice.

**Complainant's Requested Value:**

\$7,060,000 as amended at the hearing

**Issues:**

The two issues were presented as alternatives to address the same issue, being what the correct 2012 assessment should be. The alternative issues are:

1. What is the correct rental rate to use in calculating the 2012 assessment?
2. What is the correct vacancy rate to use in calculating the 2012 assessment?

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

[5] The Complainant's position is that in calculating the 2012 Assessment is that either:

- the 18,239 SF of vacant space (in building shell condition) as of the assessment date, be assessed at a \$5/SF discount to the lease rate of \$14/SF used by the City in its assessment calculation to reflect the cost of tenant improvements (the \$14/SF base rate was not in dispute), or
- the vacancy rate be adjusted from the 8% used in the City's assessment calculation to a rate of 25% to better reflect the vacancy as of the condition date.

[6] To support the position that the building had 18,239 SF of vacant space out of a total of 53,871 SF (33.9% vacancy), the Complainant presented rent rolls for the subject building as of July 31 for 2010, 2011 and 2012 (pages 43-51, Exhibit C1) and a summary of the vacant space along with a projection as to absorption of the vacant space on page 52, Exhibit C1. The Complainant stated that space shown on the rent rolls as occupied by Northwest Operating Trust is actually vacant "shell" space. Northwest Operating Trust is related to the owner of the building, Healthcare Properties Holdings Ltd. The Complainant provided one photograph of one of the vacant spaces (page 38, Exhibit C1) dated June 2, 2012, which was apparently of about a 3000-4000 SF vacant space on the main floor of the building showing the "shell" condition (i.e. cement floor, no ceiling panels, etc.). Apparently the two representatives for the Complainant could not gain entry into other vacant space, occupied by Northwest Operating Trust, as those spaces were locked.

**Respondent's Evidence**

[7] The Respondent presented the Assessment Request for Information (ARFI) package received from the owner of the subject building, dated August 11, 2011, which included a rent roll (Note that the page numbers in Exhibit R1 were cut off or not legible on some pages, but the information referred to is indicated as pages 1/18 to 18/18 in Exhibit R1). Page 13/18 is the last page of the rent roll dated August 11, 2011 and shows the vacant space as 2,895 SF (5.4% of the total). The rent roll spread sheet treats the Northwest Operating Trust space as leased space. The City relied on this information in preparing the 2012 Assessment, which shows that the actual vacancy was below the 8% vacancy used in the 2012 Assessment calculation.

**Rebuttal and Argument**

- [8] In rebuttal, the Complainant presented an email from the property manager of the subject building that confirms that the Northwest Operating Trust space was "vacant and in raw space", and confirming that the total vacant space as of December 31, 2011 was 18,239 SF (pages 4-6, Exhibit R2). The Complainant stated that the City Assessor did not make any effort to inspect the building to confirm the amount of vacant area or its status after receiving the Complainant's disclosure package. The Complainant argued that the only evidence presented regarding the amount of vacant space was that presented by the Complainant, a total area of 18,239 SF.
- [9] The Respondent argued that the 2011 ARFI provided by the owner of the subject building indicated only 2,895 SF of vacant space. No other information was provided by the owner (assessed party) correcting or updating the information in the ARFI. The Complainant only provided one photograph of one vacant space of about 3000 to 4000 SF and did not personally inspect the vacant spaces shown as occupied by Northwest Operating Trust in the rent roll.

**Conclusion of the Board on this Issue**

- [10] The Board considers the key issue in this matter is how much vacant space existed in the building as of the condition date (December 31, 2011) for the 2012 assessment. Once the amount of vacant space is established, then the second issue is whether the vacant space was in a condition that would achieve market rents, or was it in a condition that would require substantial tenant improvements to achieve market rents and therefore some discount may be in order. But until the amount of vacant space is determined, all other issues are moot.
- [11] The assessment is based on the ARFI information provided to the City by the building owner in August 2011, which indicates 2,895 SF of vacant space. The Complainant argued that the 15,544 SF occupied by Northwest Operating Trust is also vacant "shell" space, for a total vacant area of 18,239 SF. The only evidence provided was one photograph of one space of about 3000 to 4000 SF (page 38, Exhibit C1) and an email from the property manager confirming that the vacant area is 18,239 SF (pages 4-6, Exhibit C2). Given the position the Respondent took in their disclosure, the Board would have thought that the Complainant in its rebuttal disclosure would have made more effort to establish the amount of vacant space, including more photographs of the Northwest Operating Trust space. The one photograph presented by the Complainant appears to refer to the 2,895 SF of vacant space in the building. No photographs of the area occupied by Northwest Operating Trust are provided and neither individual representing the Complainant viewed or inspected this space. Other than an email from the property manager, there is no evidence disputing the information presented in the rent rolls by both parties (in Exhibits C1 and R1) showing the vacancy in 2011 at or about 2,895 SF. The Board accepts that the vacancy as shown in the 2011 rent rolls of about 2,895 SF is correct.

- [12] The Board concludes that the vacancy for the subject property is 2,895 SF as shown on the 2011 ARFI. This translates into a vacancy rate below the 8% vacancy rate used by the City in its 2012 Assessment Calculation. There is no reason to consider the evidence and argument presented on other issues, as they are moot.

**Board's Decision:**

- [13] For the reasons discussed above, the Board concludes that the 2012 Assessment is confirmed at \$8,160,000.

DATED AT THE CITY OF CALGARY THIS 3 DAY OF OCTOBER 2012.



Ivan Weleschuk  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
C1	Complainant's Disclosure
R1	Respondent's Disclosure
C2	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.*