

**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:

***Whiterock 9705 Horton Road SW Calgary Inc. (as represented by Altus Group Limited),
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:

ROLL NUMBER:	124192204
LOCATION ADDRESS:	9705 Horton Road S.W.
HEARING NUMBER:	68065
ASSESSMENT:	\$6,910,000

- [1] This complaint was heard on 19th 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:

- D. Chabot

Appeared on behalf of the Respondent:

- M. Ryan
- D. Gioia

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 1.71 acre property is located at 9705 Horton Road S.W. in the Haysboro District, west of McLeod Trail South. The property consists of three separate low rise office buildings built (two two-storey and one four storey) with a total of 53,754 square feet (SF) of assessed rentable area. Access is via Horton Road. The property does not have exposure to McLeod Trail and is adjacent to the LRT tracks. The property is zoned as Industrial-Business.
- [4] The property consists of four space components, being office space below grade, recreation space, southwest office space and storage space. The 47,508 SF of southwest office space is assessed at a rental rate of \$13/SF. When the typical factors are applied, the 2012 assessment is \$6,910,000 as indicated in the 2012 Property Assessment Notice and Non-Residential Properties-Income Approach Valuation sheet.

Complainant's Requested Value: \$6,360,000

Issues:

The issue relates to determining the correct 2012 assessment for the subject property, and specifically:

1. What rental rate should be applied to the subject's southwest office space component?

Issue 1: Rental Rate for Southwest Office Space
Complainant's Evidence

- [5] The Complainant's position is that the subject property is inferior to "typical" southwest office properties, therefore the typical rental rate applied in the 2012 assessment of \$13/SF is too high. Rents being achieved on the subject property over the last three years are below typical rental rates used in the respective assessments. Based on actual rental information, the appropriate rental rate that should be applied to the subject property for the 2012 assessment is \$12/SF.
- [6] The Complainant presented assessment information showing that southwest office buildings considered superior to the subject were assessed using the same rental rate as the subject. The Complainant noted that the rental rate of \$13/SF was applied to all Quality Class B+, B and B- office buildings in the southwest quadrant.
- [7] The Complainant presented a summary of the leases signed between July 2010 and July 2011 (page 41, Exhibit C1). The two leases signed during this time period resulted in a weighted average of \$11.67/SF and median of \$11.50/SF. The Complainant also presented a summary of leases signed between July 2011 and December 2011, conceding they are post facto, but demonstrate a trend. These leases show a weighted average of \$12.26/SF and median of \$12.00/SF which support the requested rental rate of \$12/SF. The actual rent rolls were not presented in Exhibit C1.
- [8] The Complainant presented two Composite Assessment Review Board decisions that reduced the rental rate based on leasing information specific to the subject property, to support the approach that actual lease rates can be considered in determining the rental rate to be used in an assessment calculation.

Respondent's Evidence

- [9] The Respondent provided a summary table on page 13 of Exhibit R1 that showed five leases in the subject property entered into in 2009 ranging from \$10 to \$15/SF, the two leases presented by the Complainant in 2010 ranging from \$11 to \$12/SF, and the five post facto leases presented by the Complainant ranging from \$10 to \$13/SF. Based on this evidence, the Respondent stated that the range of typical lease rates is \$10 to 15/SF. The rental rate used is \$13/SF, which fits into the range of typical therefore is correct. Rental information provided by the subject building owner was presented (page 14 to 23, Exhibit R1) to support the actual rates summarized.

Complainant's Rebuttal Evidence

- [10] In rebuttal, the Complainant presented evidence to show that some of the southwest office comparable properties presented by the Respondent to support the \$13/SF rate were from buildings that were not comparable. Some of the comparable buildings included medical/dental space, which rent at a premium to general office space.

Conclusions of the Board in this Matter

- [11] The Board, via questions established that the Complainant was not raising an equity argument. The assessment information presented from "superior" southwest office buildings was for the purpose of showing that the rental rate for the subject property of \$13/SF is too high. The Board notes that while there were some general comments made comparing the quality of the subject property with other southwest office properties, no evidence was presented to show how these other southwest office properties were superior. Insufficient evidence was presented by the Complainant to establish that a rental rate of \$13/SF was not appropriate to apply to Quality Class B+, B or B- southwest office buildings.
- [12] The Board examined the rental information provided in Exhibit R1. The Board then further considered the rental information as part of its decision-making process, as this was the most compelling evidence before the Board. Based upon this examination of the rental information, the Board concludes that a rental rate of \$13/SF is supported.

Board's Decision

- [13] For the reasons discussed above, the Board concludes that the appropriate rental rate to be applied to the subject office space for calculating the 2012 assessment is \$13/SF. Therefore, the Board confirms the 2012 assessment of \$6,910,000

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:**

NO.	ITEM
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.*