

**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:

MDC Property Services (as represented by ALTUS Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Hatem Naboulsi, PRESIDING OFFICER

P. Pask, MEMBER

M. Peters, 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 2011 Assessment Roll as follows:

ROLL NUMBER: 078001401

LOCATION ADDRESS: 1240 20 Avenue SE

HEARING NUMBER: 62776

ASSESSMENT: \$8,050,000

This complaint was heard on 18th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *Daryl Genereux*

Appeared on behalf of the Respondent:

- *Jerome Ashley*

Property Description:

The subject property is a three storey brick structure suburban office building constructed in 1921 and underwent renovations and modification in 2007/2008. Located in the Southeast community of Alyth, it is assessed based on the income approach method as an "A" class office building.

The assessed area is 43,886 sq. ft. of which 21,473 has a non-arms length lease in place to one affiliated company. 22,413 sq. ft has never been leased since the building was renovated. The subject has a triangularly shaped lot bordering railway tracks on two sites.

Issues:

- What is the appropriate classification for the subject property?
- What is the appropriate rental rate to be applied for the subject property?
- What is the appropriate CAP/rate to be applied for the subject property?
- Is the subject property equitably assessed comparing to other comparable properties?

Summary of Evidence:

The Complainant's Position

The Complainant submitted two briefs C1 and C2 and indicated that the subject property has unusual setting with inconvenient access and no significant street frontage or exposure. The building suffer considerable economic functional obsolesce because of the triangularly shaped lot bordering railway tracks on two sides. To the rear or east at least seven tracks as this area constitutes part of the CPR yards.

The Complainant also indicated that 21,473 sq. ft. has a non-arms length lease in place to one affiliated company and 22,413 sq. ft. has never been leased since the building was renovated in 2007/2008. The Complainant argued that the subject property has been classified as "A" class office building by the assessor. For the current rental rate, it generated from the affiliated company and from the renovations and addition that was completed in 2007/2008, without taking into consideration location, shape, age of the original building, access and exposure.

The Complainant submitted 16 comparables rent analysis for "A" class buildings C1- pages 77 and 78 with average of \$12.75, median \$12.50 and weighted average of \$13.04 per sq. ft and

25 comparables rent analysis for "B" class buildings c1-page 80 and 81 with average of \$12.56, median \$12.50 and weighted average of \$12.58 per sq. ft. In support of 8.75% CAP rate and equity, the Complainant provided the Board with 9 office buildings "B" class equity comparables. C1-page 60 with average of \$127 and median of \$130.00 per sq. ft and provided the Board with 10 market lease indicators ranging from \$6.00 to \$15.18 per sq. ft.

The Complainant in his rebuttal, C2 demonstrated to the Board that the City of Calgary's comparables are superior than the subject and request the Board to reduce the assessment to "B" class request at 8.75% CAP/rate to \$4,590,000 or market rent request at 8.75% CAP/rate to \$3,780,000.

The Respondent's Position

In support of the assessment, the Respondent submitted R1 and argued that the subject property is achieving rent beyond market for "A" class building based on the assessment request for information received. The Respondent provided the Board with 7 "A" class building lease comparables with mean of \$19.87, median \$19.00 and weighted mean of \$20.91 assessed at \$19.00 per sq. ft. and 5 equity comparables to support the rental rate and the CAP/rate of 7.5% applied to the subject.

The Respondent also submitted 17 "A-" lease comparables with mean of \$17.04, median \$18.00 and weighted mean of \$17.75 sq. ft. assessed at \$18.00 per sq. ft. and 14 "B" class lease comparables with median of \$15.00 per sq. ft. The Respondent indicated to the Board that adjustment for access, exposure, railway tracks and the irregular shape of the building are not warranted for the subject and request the Board to confirm the assessment.

Findings:

The Board is persuaded by the Complainant's evidence and argument that the subject property should be classified as "B" office building and agreed with his statement "We can't see the subject being any better than "B" quality building" taking into consideration location, age access, rental rate, irregular shape of the building, railway tracks on both sides, exposure and lack of amenities. The Board is of the opinion that all these physical characteristics should be considered before applying any classification to a property.

The Board was not persuaded by the Respondent's "A" class to the subject based on site specific rental rate achieved through a non-arms length deal with affiliated company as this rental rate does not reflect typical market value. In the rebuttal document C2, the Complainant demonstrated to the Board that the comparables presented by the Respondent are superior to the subject. The Board also notes that the market lease indicators submitted by the Complainant C1 pages 96-117 support the decision from the perspective of test and trend in the market place.

The Board accepts the Respondent's 7.5% CAP/rate applied to the subject as there was not enough evidence or analysis submitted by the Complainant to justify the requested 8.75% Cap/rate.

Board's Decision:

The Board reduces the 2011 assessment from \$8,050,000 to \$5,350,000.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF September 2011.


Warren Nabors
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	Respondent Disclosure

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.*