

**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:

***DUNDEAL CANADA (GP) INC., COMPLAINANT
(Represented by Colliers International Realty Advisors)***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair P. COLGATE
Board Member S. ROURKE
Board Member R. DESCHAIINE***

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: 067169508

LOCATION ADDRESS: 1414 8 STREET SW

HEARING NUMBER: 61419

ASSESSMENT: \$9,470,000

This complaint was heard on 22 day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Scott Meiklejohn, Colliers International Realty Advisors – Representing Dundee Canada (GP) Inc.*

Appeared on behalf of the Respondent:

- *Lawrence Wong – Representing the City of Calgary*

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

The board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

The Complainant requested the Board cross reference this hearing number with the evidence presented for Roll Number 067139998, Hearing Number 61346. The Respondent stated the evidence was the same as previously submitted and did not see the need to present the evidence again. Specifics to the subject property would be addressed through the presentation. The Respondent had no objections to the request.

The Respondent state that due to a 'correction' in the designation of a portion of the building from office to retail the City of Calgary would be requesting an increase in the assessment to \$9,700,000.00.

Property Description:

The property is improved with an eleven (11) storey office building, identified as Mount Royal Place, built in 1978 in the Beltline community. The assessable land area is 23,581 square feet and a building area of 56,586 square feet. The structure has been classified as a 'B' quality.

Issue:

1. Is the office net rental rate correct?
2. Is the vacancy allowance correct for office, retail and parking space?
3. Is the capitalization rate correct for office, retail and parking space?
4. Is the parking net rental rate correct?
5. Is the subject equitably assessed?
6. Is a portion of the building incorrectly designated for use?
7. Is the class of the building correct?

Complainant's Requested Value: \$5,916,041.11

Board's Decision in Respect of Each Issue:

The Board will address the evidence for each of the issue questions separately in this decision.

ISSUE 1.**Office Rental Rate****Complainant's Evidence:**

The Complainant requested a rental rate of \$10.00 be applied to the office space.

The Complainant made reference to their submission on Downtown Assessment Parameters (C1, Pg. 55-57) with respect to the declining rate per square foot for the differing classes. The rate dropped from \$22.00 to \$19.00 for A and A- buildings and from \$14.00 to \$13.00 for B and B- buildings. It was the Complainant's position the same pattern should be applicable in the Beltline area with the office rates applied by the City of Calgary.

The Complainant submitted a copy of the November 1, 2010 tenant roll for the Mount Royal Place building. (C1, Pg. 25). The Complainant's analysis indicated a mean rate of \$18.29 and a median rate of \$17.00 applied to the tenants in the building. An abbreviated tenant roll listing the 'most recent' leases was provided which indicated a mean rental rate of \$11.20 and a median rental rate of \$10.00 for five leases which started in 2010.(C1, Pg. 26)

The Complainant provided a copy of the Rent Roll (C1, Pg. 27-29) for the subject property, dated December 01, 2010.

Additionally, the Complainant provided three Comparable Rental Summary charts (C1, Pg. 31-33). Chart one on page 31, covering the period July 2009 to December 2009, indicated a mean rental rate of \$15.55 and a median rental rate of \$16.00. There was one lease provided from Mount Royal Place at a rental rate of \$11.50.

Chart two on page 32, covering the period January 2010 to July 1 2010, indicated a mean rental rate of \$12.32 and a median rental rate of \$12.00. There were two leases provided from Mount Royal Place at rental rates of \$14.00 and 12.00.

Chart three on page 33, covering the period September 2010 to December 2010, indicated a mean rental rate of \$12.31 and a median rental rate of \$12.50. There were two leases provided from Mount Royal Place at a rental rate of \$11.00.

The Complainant also submitted tenant rolls from five additional buildings in the vicinity, with statistical analysis, which the Board has shown on the following table.

| ADDRESS | LEASE STARTS | MEAN RENTAL RATE | MEDIAN RENTAL RATE |
|--------------------------------|------------------------------------|------------------|--------------------|
| 1122 4 TH Street SW | April 1, 2002 thru January 1, 2011 | \$18.88 | \$16.66 |
| 909 11 Avenue SW | May 1, 1985 thru July 1, 2010 | \$16.00 | \$16.00 |

| | | | |
|------------------|--|---------|---------|
| 919 11 Avenue SW | October 1, 1993 thru February 1, 2010 | \$20.86 | \$20.00 |
| 906 12 Avenue SW | February 7, 2003 thru December 1, 2010 | \$18.03 | \$16.50 |
| 1333 8 Street SW | January 1, 2002 thru November 1, 2010 | \$21.10 | \$18.50 |
| SUBJECT | | | |
| 1414 8 Street SW | April 1, 2006 thru September 1, 2010 | \$18.29 | \$17.00 |

Respondent's Evidence:

The Respondent submitted a copy of the Assessment Request for Information (ARFI) response for Mount Royal Place dated April 13, 2010. The response included a Property Rent Roll with Step Increases for Mount Royal Place as of 04/01/2010. The Respondent noted there were few leases to support a rental rate of \$10.00 for office space.

The Respondent provided tables of leases from four office buildings (R1, Pg. 20-24) – 550 11 Avenue SW, 1122 4 Street SW, Dominion Centre, Foundation Building – and prepared a table of 2010 leases (R1, Pg. 25) showing a mean rental rate of \$13.36 and a median rental rate of \$13.00.

Findings and Decision of the Board With Respect to Office Rental Rate

Complainant's Submission:

The Board finds the Complainant's analysis does not support the requested rate of \$10.00 per square foot. The Board finds there are few leases in the Mount Royal Place building to support the request but rather the site specific rental rates support the City rate of \$14.00, if not a higher rental rate. Of the five leases selected by the Complainant the Board finds two are post facto leases – Unit 230 and Unit 600. The remaining three leases have a mean of \$12.00.

The Board finds the comparables provided by the Complainant also fail to support a reduction to the office rental rate. While a few individual leases may reflect a lower rate than \$14.00, they do not represent the majority or typical rental rate.

The Board finds the Complainant's evidence does not meet onus.

The office rental rate is confirmed at \$14.00.

ISSUE 2.

Vacancy Allowance for Office, Retail and Parking Spaces

Complainant's Evidence:

The Complainant requested a vacancy allowance of 15.0% be applied to the assessment

calculation for office and retail space and for the parking stalls. The current vacancy allowance is 13.0% for office and retail space and 2.0% for parking.

The Complainant's submission on Vacancy allowance (C1, Pg. 58-74) provides the Board with four pages of analysis for vacancy created by Colliers International Realty Advisors and third party reports from CresaPartners for the four quarters of 2010.

The Board's review of the Collier's documents finds the following percentage vacancy information for 2010 in the Beltline –

| | Total Vacancy – A,B,C Class | Vacancy for B Class Buildings |
|------------------|-----------------------------|-------------------------------|
| Quarter 1 | 17.05% | 12.83% |
| Quarter 2 | 13.07% | 9.20% |
| Quarter 3 | 12.61% | 9.25% |
| Quarter 4 | 11.86% | 9.21% |
| Average for Year | 13.64% | 10.12% |

A similar analysis of the CresaPartners submissions produced the following chart by the Board for the Beltline/SW Beltline–

| | Percentage Beltline | Percentage SW Beltline | Total Percentage Beltline |
|----------------------|---------------------|------------------------|---------------------------|
| Quarter 1 | 19.43% | 12.45% | 17.79% |
| Quarter 2 | 17.14% | 13.60% | 16.30% |
| Quarter 3 | 13.92% | 8.69% | 12.69% |
| Quarter 4 | 14.04% | 9.0% | 12.85% |
| Average for the Year | 16.13% | 10.94% | 14.90% |

Respondent's Evidence:

The Respondent referred the Board to a third party report prepared by Avison Young, titled the 'Calgary Office Market Report – Second Quarter 2010' (R1, Pg. 35-42). Specific reference was made to the chart on page 38 – Beltline Calgary Q2 2010 Vacancy Rates – which indicated the following for the Beltline area–

Overall Vacancy – 9.77%
Class B Vacancy – 10.49%

The following quotes are taken from the same page – “The vacancy rate for Beltline Calgary is 9.8% for the second quarter 2010, down from 12.4% in the first quarter of 2010...” and “looking at the specific classes of buildings, class A has a vacancy of 6.5%, class B has a vacancy of 10.5%, and class C has a vacancy of 15.6%”.

Findings and Decision of the Board With Respect to the Vacancy Rate

Complainant's Submission:

The Board finds the evidence submitted by the Complainant supports the vacancy rate applied for the July 1, 2010 valuation date. The report prepared by Colliers shows a vacancy rate in the second quarter of 13.07% for all classes of buildings and 9.20% for B class buildings. Both values are below the Complainant's requested level of 15.0%.

The analysis prepared by CresaPartners, while indicating a higher rate for the second quarter, does not provide a breakdown by class of building. The Board does note the report breaks the Beltline into two areas – the Beltline and the SW Beltline. When the Board looks at pages 65, 68, 71 and 74 of the CresaPartners reports, we find the Dorchester Square building is listed in the SW Beltline area which has a vacancy rate of 13.60% in the second quarter.

The Board also noted on page C1 29 the vacancy of the subject building was shown as 10.0%. Although it reflects only one month, it is below the requested 15.0% vacancy allowance.

No direct evidence was submitted by the Complainant or the Respondent with respect to vacancy allowance applied to the parking assessment, except for the Complainant's argument the vacancy be consistent with the office vacancy rate.

The Boards find the Complainant's evidence does not meet onus.

The vacancy allowance rate is confirmed at 13.0%.

ISSUE 3.

Capitalization Rate for Office, Retail and Parking Spaces

Complainant's Evidence:

The Complainant requests the capitalization rate be increased from 8.5% to 9.0%.

The Complainant referred to the Downtown Assessment Parameters (C1, Pg. 55-57) to reference the 9.0% Capitalization Rate being applied in the market area immediately north of the Beltline. It was the Respondent's contention the rate should be the same for the Beltline as in the Downtown market zone.

The Complainant submitted a report from CB Richard Ellis which provided a table of Canadian Capitalization Rates for the first and second quarters of 2010. The evidence for Calgary indicated –

| Downtown Office | Quarter 1, 2010 | Quarter 2, 2010 |
|-----------------|-----------------|-----------------|
| AA | 6.75% - 7.25% | 6.75% - 7.25% |
| A | 7.50% - 8.00% | 7.25% - 7.75% |
| B | 9.00% - 9.50% | 9.00% - 9.50% |
| | | |
| Suburban Office | | |

| | | |
|---|---------------|---------------|
| A | 7.50% - 8.25% | 7.25% - 7.75% |
| B | 8.75% - 9.25% | 8.75% - 9.25% |

The Complainant submitted National Capitalization Rate Summaries, produced by Colliers International for the three quarters 2010 and the first quarter 2011.

| | A – Low % | A – High % | B – Low % | B – High % |
|--------------------------|-----------|------------|-----------|------------|
| Downtown Office Cap Rate | | | | |
| Quarter 1, 2010 | 6.25 | 7.00 | 8.00 | 9.00 |
| Quarter 2, 2010 | 6.25 | 7.00 | 8.00 | 9.00 |
| Quarter 3, 2010 | 6.25 | 6.75 | 8.00 | 9.00 |
| Quarter 1, 2011 | 6.25 | 6.75 | 7.75 | 9.00 |
| Suburban Office Cap Rate | | | | |
| Quarter 1, 2010 | 7.00 | 7.75 | 7.75 | 8.75 |
| Quarter 2, 2010 | 7.00 | 7.75 | 7.75 | 8.75 |
| Quarter 3, 2010 | 7.00 | 7.50 | 7.75 | 8.50 |
| Quarter 1, 2011 | 6.75 | 7.25 | 7.50 | 8.25 |

Respondent's Evidence:

The sole evidence submitted by the Respondent with respect to the Capitalization rate consisted of a report from Investment Trends Survey – Q2 2010 Results (R1, Pg. 43-44). The documents showed the Downtown Class B Offices overall capitalization rate to average 8.2%, with a maximum of 9.0% and a minimum of 7.3%.

Findings and Decision of the Board With Respect to the Capitalization Rate

Complainant's Submission:

The Board finds the Complainant's position the capitalization rate should be the same for the Beltline as the Downtown is without merit. The Respondent's own evidence shows the industry recognizes a difference exists between the downtown and the suburban markets, with the suburban market showing consistently a lower capitalization rate for similar class buildings.

The Board finds the CB Richard Ellis report, while indicating a higher capitalization may be possible, does not sufficiently breakdown the capitalization rate to market areas or class of structure to be evidence the rate for the Beltline should be adjusted upwards.

With respect to the Colliers International reports, the Board restricts itself to the first two quarters of 2010, up to the valuation date of July 1, 2010, as being most indicative of the capitalization rate. The Board finds the range for B class suburban offices - 7.75% to 8.75% - better supports the 8.5% capitalization rate used by the City of Calgary than the Complainant's requested rate of 9.0%

The Board find the Complainant's evidence does not meet the onus place upon him.

The capitalization rate is confirmed at 8.50%.

Respondent's Submission:

The Board finds the Respondent's evidence is at best minimal.

ISSUE 4:

Net Rental Rate for Parking

Complainant's Evidence:

The Complainant requested the rental rate for parking stalls be adjusted from \$200.00 per stall to \$175.00 per stall.

The Complainant's rent roll submission (C1 Pg.53) indicates ten parking stalls are rented for between \$180.00 and \$265.00 per stall.

Respondent's Evidence:

The Respondent's evidence to support the rental rate for parking was found on page R1 53, which lists two parking stalls being rented for \$180.00 and \$265.00 per stall.

Findings and Decision of the Board With Respect to the Net Rental Rate for Parking

The Board finds the Complainant has provided insufficient evidence to support a change to the net rental rate for parking.

The rental rate for parking is confirmed at \$200.00.

ISSUE 5:

Equity with Comparable Offices – Assessment to Sales Ratios

Complainant's Evidence:

The Complainant presented the Board with a presentation on Beltline Office Sales (C1, Pg. 94 – 117) with emphasis on five sales – 1944 10 Avenue SW, 1313 10 Avenue SW, 340 12 Avenue SW, 933 17 Avenue SW and 1331 Macleod Trail SE. Additionally, the Complainant provided a spread sheet of 21 Suburban Office sales from all quadrants of the City of Calgary.

The Complainant statistically analysed the 5 sales with respect to mean, median, assessment per square foot, sale price per square foot and assessment to sales ratio (ASR). A similar analysis was carried out on the 21 citywide sales. It was the Complainant's position the assessments were incorrect based upon the wide range of ASR's calculated for the sales.

Respondent's Evidence:

The Respondent provided four sales with Assessment to Sales Ratios ranging from 0.90 to 1.04 in support of the assessment process applied to the Beltline offices. Additionally, a listing for the property at 1111 11 Avenue SW was submitted in support of the assessment rates and adjustments being applied. The property was listed for \$10,500,000.00 November of 2010, with a 2011 assessment of \$8,300,000.00.

Findings and Decision of the Board With Respect to the Comparable Sales

The Board finds insufficient evidence to support a change to the subject assessment based upon the sales evidence supplied. The Assessment to Sales Ratios calculated by the Complainant fail to time adjust the sales to the same year as the assessment used. The resulting ratios in ASR's have no relationship to each other due to the different dates of sales and thus a valid relationship cannot be established. Although some sales indicate a low ASR the Complainant has not effectively shown the Board how this would affect the assessment of the subject property.

The Respondent has failed to tie the ASR analysis to the subject property to the satisfaction of the Board.

The Board finds the ASR's would support increases to the assessment values, not decreases as requested.

The Board finds the Complainant has provided insufficient evidence to support a change to the assessment based upon equity.

ISSUE 6:**Space Designation**

At the outset of the hearing the Respondent indicated a portion of the main floor of the building was incorrectly designated as office space. Based upon the rent roll submitted by the Complainant, the Respondent requested 3,814 square feet be designated retail space and a rate of \$20.00 be applied accordingly.

Findings and Decision of the Board With Respect to the Space Designation

Upon review the Board finds –

1. 1,549 square feet was previously assessed as office and is designated office on the rent roll provided by the Complainant.
2. 2,265 square feet were vacant on December 31, 2010.
3. The lease for the new tenant, Jelly Modern Doughnuts, did not commence until 02/01/2011.

As the lease was not in place on either July 1, 2010 or December 31, 2010 the Board will not alter the designation on the space for 2,265 square feet for the 2011 assessment.

As the Respondent has failed to show evidence the space of 1,549 square feet is not used as office space the Board will not alter the designation on the space for the 2011 assessment.

ISSUE 7:

The Building Classification

The Complainant, referring to page 10 of the C1 submission, paragraph 2(b)(v) states – 'Specifically, the assessment amount does not properly reflect the current market in terms of lease rates, vacancy allowance, parking income, and capitalization rate. The assessment amount does not reflect the location (Beltline), age, size and quality of the subject. **The subject property is incorrectly classified as a "B" office building.** The subject is located in the western portion of the Beltline of which the rent, vacancy and capitalization rate are not reflective in the assessment. The atypical specific performance of the subject indicates that it is inferior to other buildings in the area.'

Findings and Decision of the Board With Respect to the Space Designation

The Board finds that is as much as the Complainant has failed to convince the Board as to the requested changes to the assessment – rental rates, vacancy, capitalization rate – the argument to change the classification of the building from 'B' to 'C' has also failed.

The Board confirms the classification as a 'B' office building.

Board's Decision:

It is the decision of the Board the Complainant has failed to provide sufficient evidence to adjust the assessment of the subject property.

The Board confirms the assessment at \$9,470,000.00.

DATED AT THE CITY OF CALGARY THIS 23 DAY OF September 2011.



Philip Colgate
Presiding Officer

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

| NO. | ITEM |
|------------|------------------------|
| 1. C1 | Complainant Disclosure |
| 2. 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.*