

**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:

***BOW PARKADE HOLDINGS LTD. , COMPLAINANT  
(Represented by Colliers International)***

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:** 068076306  
068077205

**LOCATION ADDRESS:** 231 6 AVENUE SW  
250 7 AVENUE SW

**HEARING NUMBER:** 63017  
63016

**ASSESSMENT:** \$32,680,000.  
\$28,210,000.  
**TOTAL \$60,890,000.**

This complaint was heard on 23 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:

- *Chris Hartley, Colliers International – Representing Bow Parkade Holdings Ltd.*
- *Stephen Cook, Colliers International - Representing Bow Parkade Holdings Ltd.*
- *Bill Boulton, Partner/Owner Bow Parkade Holdings Ltd.*
- *Greg Jobagy, Colliers International, Observer*

Appeared on behalf of the Respondent:

- *Daniel Lidgren – 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 matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

At the request of the Complainant and the Respondent, Roll Numbers 068076306 (File Number 63017) and 068077205 (File Number 63016) will be heard jointly as the evidence presented applies to both properties. The two properties combine to create the Bow Parkade. The Board accepts this request and will write one decision to cover both properties

**Property Description:**

The subject properties are two parcels in the Downtown Commercial Core. The first property is located at 250 7 Avenue SW, legal description Plan A Block 44 Lots 31-40, encompassing 32,573 square feet and the second property is located at 231 6 Avenue SW, legal description Plan A Block 44 Lots 1-8, encompassing 26,058 square feet. The site is improved with a seven level open air parkade containing 1010 parking stalls, 447 stalls and 563 stalls, respectively. On the first and second levels are twelve retail or office operations.

**Issue:**

1. Is the capitalization rate for the properties correct?
2. Is the Rental Rate for parking stalls correct?
3. Are the Operating Costs for parking correct?
4. Is there equity with other parkade properties?

**Complainant's Requested Value:**

068076306 requested assessment 16,020,000.00  
068077205 requested assessment 14,610,000.00

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

The Board reviewed the evidence with respect to each issue and rendered a decision.

**General Submissions by Complainant**

The Complainant submitted extensive photographic evidence of the subject and the parkade comparables, (C1, Pg. 102-188) promotional material of owner's efforts to increase the number of monthly renters, (C1, Pg 189-198) and information on expired 'Block' Licence Agreements with Neighbouring Office Buildings. (C1, Pg. 259-304)

The Complainant presented the schedule of Prospective Cash Flow (C1, Pg. 11-13) developed by the owners to predict future revenue and expenses for the Bow Parkade. The Complainant made the point the Project Gross Income and Project Net Operating Income (NOI) have not met the original expectations of the owners.

**General Submissions by Respondent**

The Respondent submitted a number of City of Calgary position documents for the Board's information – Legislative Authority for Property Assessment (R1, Pg. 4-5), Property Valuation Methodology (R1, Pg. 6), Burden of Proof or Onus of the Parties (R1, Pg. 7-8), Bramalea and Bentall Decision Overview (R1, Pg 9-10), 'Market Value' and its Relation to Assessment (R1, Pg. 11-13) and Fee Simple Estate and Leased Fee Estate (R1, Pg 14-16).

The Respondent submitted a Summary of Testimonial Evidence (R1, Pg. 17-18), eight photographs of the subject properties (R1, Pg. 20-27), a location map (R1, Pg. 29) and an aerial photography of the subject site (R1, Pg 30). 2011 Property Assessment Notices (R1, Pg. 32-34) and the Non-Residential Properties – Income Approach Valuation reports (R1, Pg. 35-40) were also submitted as evidence.

The Respondent has submitted details with respect to the sale of the subject property in May of 2007 for \$86,000,000.00. (R1, Pg 70-81) Additionally, the Respondent submitted an analysis of the six sales of parkades which have occurred in the City of Calgary from December of 1986 to May of 2007 (the subject properties). The Respondent presented a graph showing how the sale price per stall has increased over time. (R1, Pg 84-105)

**ISSUE 1. - Is the capitalization rate for the properties correct?****Summary of Complainant's Evidence:**

At the outset the Complainant stated the capitalization rate should be tied to the rate applied to the neighbouring office buildings, as there is a correlation between the offices and the parkade. The Complainant stated there is a grading or class designation for the parkades but there is no distinction between the classes with respect to the capitalization rate. The Complainant contended there is an inverse relationship between the quality of the parkade and the capitalization rate applied to determine the assessed value.

The Complainant has provided the Non-Residential Properties – Income Approach Valuation reports for nine office buildings located in the Downtown area - (C1, Pg. 53-72)

NAME	ADDRESS	QUALITY (IF PROVIDED)	CAPITALIZATION RATE - %
DELAWARE BLOCK	117 5 Avenue SW	AA	7.0
BP HOUSE	333 5 Avenue SW	A-	7.5
ROSYLYN BUILDING	400 5 Avenue SW	B	9.0
NOT PROVIDED	736 6 Avenue SW	B	9.0
CALGARY HOUSE	540 6 Avenue SW	B-	9.0
MANULIFE HOUSE	603 7 Avenue SW	NOT PROVIDED	9.0
SHELL COURT	630 3 Avenue SW	NOT PROVIDED	7.5
AQUITAINE TOWER	540 5 Avenue SW	NOT PROVIDED	9.0

The Complainant held the opinion the capitalization rate was a function of the condition of the complex. In support the Complainant presented a photographic tour of the subject and comparable parkades to illustrate the difference in physical characteristics, condition and quality among the various parkades. (C1, Pg. 102-188)

The Complainant presents a case for the correlation between the office vacancy rates and the vacancy rate found in the subject parkade. (C1, Pg. 31-32) Support for the office vacancies was supplied from quarterly reports from CresaPartners – Corporate Real Estate Services Advisors. (C1, Pg 33-44)

The complainant is requesting a capitalization rate of 8.5%.

#### Summary of Respondent's Evidence:

The Respondent submitted a copy of the Bow Parkade Limited Partnership – Statement of Income and Expense for the year ending December 31, 2010. (R1, Pg. 60). The Respondent noted the actual net operating income (NOI) for the parking complex was \$4,546,222.00 and the assessment NOI was \$4,636,327.00 – a difference of \$90,105.00 or less than 2%.

The Respondent found issues with the Complainant's calculation of the NOI as it only reflected the income from the parkade and does not include the retail component, while using unadjusted expenses for the determination of the NOI. Also the parkade revenue value shown on the Statement of Income and Expense is different for the Complainant's submission from that supplied to the City of Calgary by the owner. (R1, Pg. 67)

Through testimony the Respondent stated the capitalization rate applied to all parkades in the Downtown area was 7.5%, regardless of the class designation of the structure. The Respondent stated the class was a function of the revenue generated not the physical classification of the structures.

#### **Findings of the Board**

##### Complainant's Submission:

The Board finds, while some correlation may exist between office occupancy and parking revenue, the Complainant has failed to adequately show the effect. On Page 31 and 32 of the Complainant's submission, an attempt is made to show how vacancy in the parkade tends to

follow the trend in Downtown office vacancy. While this may exist, the Board finds fault in the Complainant's vacancy percentages as they are based upon the total number of stalls but only the 'monthly parkers' in the parkade. There is no recognition of the daily parking in the structure, which the Board feels would have a downward effect on the percentages presented. An analysis which recognizes the effect of the stalls set aside for daily users would be a better indicator or the removal of those stalls from the total number of stalls available used in the calculation would provide a more acceptable percentage.

The Complainant, while showing the different capitalization rates for office buildings in the downtown area, failed to convince the Board as to a relationship between the class assigned to the parkade structures and office buildings. Should the capitalization rate be more closely associated with the office buildings in the immediate vicinity of the subject – in which case the capitalization rate would appear to be in line with the capitalization rate applied to the offices.

#### Respondent's Submission:

The Board finds the Respondent has not provided compelling evidence in support of the applied capitalization rate. Rather the Respondent has found fault with the analysis of the Complainant with respect to the NOI and therefore by default any calculation of the capitalization rate.

While the Board can appreciate the City of Calgary grouping parkades on the basis of revenue generated it does note the confusion created in the designation of 'Class' applied to the structures. This designation can and does lead to confusion by the public as to what is involved in the designation – quality versus revenue.

The Board finds there is a lack of compelling evidence from either party to support a change to the capitalization rate. The lack of recent sales, with the exception of the subject properties in 2007, makes it difficult to find a cap rate specific to parkades.

## **ISSUE 2. - Is the Rental Rate for parking stalls correct?**

#### Summary of Complainant's Evidence:

The Complainant requested a rate of \$350.00 per stall based upon the analysis of monthly renters. The Complainant's position was illustrated by an analysis of the monthly renters cancelling and the new monthly renters signing up for a stall.

The Complainant presented a summary of the 'Average New Sign Up' for 2010 with a graph showing the plot by month of the average rate paid. The evidence was supported by monthly analysis sheets showing the number of monthly renters cancelled and the rate paid and the number of new monthly renters and the new monthly rates paid. (C1, Pg. 17-30)

The Complainant submitted evidence as to the efforts by the Bow Parkade to increase the number of monthly renters through promotions offering monthly parking rates and free gas cards for new monthly renters. (C1, Pg.189-194)

The Complainant presented a chart to illustrate the changing in parkade revenue for the years 2008, 2009 and 2010. (C1, Pg. 16) The evidence showed the 'Average Revenue per Stall per

Month' for 2010 was \$466.84.

#### Summary of Respondent's Evidence:

The Respondent submitted two 'Assessment Request for Information' (ARFI) signed by a representative from Colliers International on March 17, 2010 for the subject properties. The ARFI's provided information on the retail leases in place on the main level of the parkade, but no information with respect to the parking in the buildings. A hand written entry stated 'call Impark'. (R1, Pg 41-54)

The Respondent included printouts from the Impark website and made note of the rates quoted by Impark. (R1, Pg.55-57) Monthly rates ranged from a low of \$150.00 per stall for main level motorcycle parking to \$561.00 for reserved stalls. Note was made of special rates for new customers for six months, which then increases to \$469.20 per month. Reference is also made to the Gas Card Promotion which is applicable to only those stalls which rent in excess of \$469.20 per month. Hourly rates are set at \$3.50 per half hour, \$27.00 for daily and \$22.00 for the Early Bird renters.

Referencing the Bow Parkade Limited Partnership – Statement of Income and Expense for the year ending December 31, 2010 (R1, Pg. 66), the Respondent calculated a rate per stall of \$5,671.28.

Parking Revenue	\$5,727,988.91
Number of Stalls	1010
Revenue per Stall	\$5,671.28
Current Assessment Rate	\$5,700.00

The Respondent submitted a third party report prepared by Colliers International on 'North America and Global Central Business District Parking Rate Survey'. (R1, Pg. 140-149). Referencing Page 142 the Respondent quoted the following information -

MARKET	CALGARY
MONTHLY UNRESERVED PARKING RATE (CAD)	
HIGH	580.00
LOW	150.00
MEDIAN	453.38
MONTHLY RESERVED PARKING RATE (CAD)	
HIGH	650.00
LOW	225.00
MEDIAN	472.50

#### **Findings of the Board**

##### Complainant's Submission:

While the Complainant's evidence may indicate a trend towards a lower monthly rental rate, the Board finds the presentation is not sufficiently convincing. While the monthly changes show a shift in the monthly rates, it is only an indication of the new rentals which represent only a small

percentage of the total number of stalls in the complex. The Board would have place more weight on a review if presented with a complete list of all the monthly renters and the rate being paid rather than only the few provided by the Complainant.

The Board is not prepared to accept the application of \$350.00 per stall to the complex as proposed by the Complainant. This would indicate potential annual revenue of \$4,242,000.00, a value significantly lower than the actual 2010 parkade revenues. Additionally the Complainant's own evidence (C1, Pg. 16) clearly indicated the monthly average revenue per stall of \$466.84.

#### Respondent's Submission:

The Respondent provided two pieces of evidence which the Board took special note of in the decision process. Firstly, the calculation of the annual revenue generated per stall at \$5,671.28 which would support the typical rate applied to the subject at \$5700.00. This calculation is based upon a document provided by the owner and contained in the Complainant's submission.

The second document was the screen print from the Impark website which indicated there are a variety of rates in the parkade – not just one as requested by the Complainant.

On the issue of parking rental rates, the Board finds insufficient market evidence to support a change to the rates applied by the City of Calgary.

### **ISSUE 3. - Are the Operating Costs for parking correct?**

#### Summary of Complainant's Evidence:

The Complainant presented a chart to illustrate the changing in parkade expenses for the years 2008, 2009 and 2010. (C1, Pg. 16) The evidence showed the 'Expenses' for 2010 was \$2,475,119.34 or 43.74% of revenue.

Additional analysis is presented by the Complainant in the review of the Bow Parkade Limited Partnership – Statement of Income and Expense which indicated the expenses represented 43.7% of the parkade revenue. (C1, Pg. 50)

#### Summary of Respondent's Evidence:

The Respondent has calculated an expense allowance for the Bow Parkade at 30.9%, based upon the Bow Parkade Limited Partnership – Statement of Income and Expense for the year ending December 31, 2010. (R1, Pg. 68). The current typical allowance applied is 25%. The Respondent deducted the expenses attributed by the Complainant to the retail component to calculate the percentage expenses for the parkade represented as a portion of the parkade revenues.

**Findings of the Board****Complainant's Submission:**

The Board finds the Statement of Income and Expenses differs from that provided to the City of Calgary. The differences between the statements with respect to revenue and expenses present the Board with difficulties, making it difficult to reach an informed decision.

**Respondent's Submission:**

The Respondent, while challenging the expense percentage provided by the Complainant, does not provide the Board with any evidence as to how the typical 25% operating allowance was determined. An indication of expense to revenue ratios from other parkades in the downtown would have provided the Board with some guidance in this area.

The Board finds the operating expenses in the complex are higher than the allowance applied by the City of Calgary. The Board has been presented with suggested allowance of 40.0% by the Complainant and 25.0% by the Respondent. The Respondent however, upon review of the Complainant's submission, has testified expenses represent only 30% of the revenue.

Normally, a Board would be hesitant to alter one component of a capitalization rate calculation as it would change the result. However, in this case where the Respondent has not or is unable to clearly show to the Board how the capitalization rate was calculated, the Board has no restriction on the decision.

It is the decision of the Board the operating costs be increased and the allowance of 30% be applied to the calculation of the assessment.

However the Board does have a concern when presented with documents which each party claimed to be from the owner's management, but show different values for the income and expenses. The Board is left to decide which statement is accurate and can be relied upon for the decision making process.

**ISSUE 4. - Is the subject parkade assessed equitably with other parkade structures?****Summary of Complainant's Evidence:**

The Complainant submitted a chart of seven parkades in the downtown area showing the quality, the assessed annual rate, the assessed monthly rates and the actual monthly rates. (C1, Pg. 77). The supporting documents, either Colliers International charts or copies of City of Calgary Assessment Summary Reports, were introduced. (C1, Pg. 78-101)

The Complainant supported the position of inequity through the photographs which show the difference in quality and amenities for each parkade – better elevators, superior maintenance, and enclosed environments.

The Complainant submitted a page from the City of Calgary Website – 2011 Property

Assessment - Assessment Range of Key Factors, Components and Variables -2011 Parking. (C1, Pg 74). It was the Complainant's contention the section identified as 2. Class was better suited for the description of office buildings than parkades.

The Complainant stated his belief the subject was not assessed equitably based upon the current physical condition which as an older structure, above ground and open to the environment, is inferior to newer underground or fully enclosed parkades.

#### Summary of Respondent's Evidence:

The Respondent submitted a chart of fifteen parkade structures assessed in the Downtown area of Calgary. (R1, Pg 83) The Respondent testified the 'Class' designation is more closely related to the revenue potential than the physical characteristics of the properties. Three comparables are assessed in a like fashion as the subject properties –

628 9 Avenue SW  
115 4 Avenue SW  
505 3 Avenue SW

All parkade structures have been assessed with a 25% expense allowance and a capitalization rate of 7.5%.

#### **Findings of the Board**

##### Complainant's Submission:

Although the Complainant has established a single capitalization rate has been applied to the parkades, there has been a failure to establish the rate is in error. The Complainant submits the subject parkades are physically inferior to the parkades having the same rental rates applied within the group.

##### Respondent's Submission:

The Respondent stated 'Class' is not a function of physical condition, but the revenue generated by the individual parkades. On the basis of the revenue, the parkades have been grouped to establish the typical rental rates per stall assigned to each structure.

The Board finds the confusion generated by the City of Calgary through its use of the term 'Class' which has two different definitions – physical quality as applied to office buildings and revenue generating as applied to parkades - leads to confusion not only for the public but the Board as well.

The Board finds, although physically different from the parkades within the group, the revenue generated by the subject does not warrant a change to the assessment on the basis of an equity argument.

## List of Complainant's Decision References-

- MGB 140/01 Eau Claire Place I & II Newell Group & City of Calgary
- CARB 015-2010 Colliers International Realty Advisors & Regional Municipality of Wood Buffalo
- ARB 0661/2010-P Bantrel Tower Colliers International Realty Advisors & City of Calgary
- ARB 0098-192/10 Altus & City of Edmonton
- ARB 0098-183/10 Altus & City of Edmonton

## List of Complainant's Decision References-

- CARB 1426/2010-P Bow Parkade Altus Group Ltd. & City of Calgary
  - CARB 1427/2010-P Bow Parkade Altus Group Ltd. & City of Calgary
  - LARB 0625/2010-B Bow Parkade Altus Group Ltd. & City of Calgary
  - CARB 1324/2011-P Altus Group Ltd. & City of Calgary - parkade
  - CARB 1325/2011-P Altus Group Ltd. & City of Calgary - parkade
  - CARB 1334/2011-P Altus Group Ltd. & City of Calgary - parkade
- Court of Appeal for British Columbia – Bramalea Ltd/T. Eatons Company & Assessor for Area 9 (Vancouver)
- Supreme court of British Columbia – Bentall Retail Services Ltd & Assessor for Area 9 (Vancouver)

**Board's Decision:**


The decision of the Board is to allow the complaint with respect to the operating expenses of the subject property. The issues of rental rate, capitalization rate and equity have been addressed by the Board and no adjustments are made to the assessment for these issues.

The decision of the board is to amend the assessments as follows –

Roll Number 068077205 reduced to \$26,510,000.00

Roll Number 068076306 reduced to \$30,540,000.00

DATED AT THE CITY OF CALGARY THIS 20 DAY OF OCTOBER 2011.



Philip Colgate  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
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.*

**FOR ADMINISTRATIVE USE**

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	OTHER	PARKING	INCOME	LAND & IMPROVEMENT