

**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:

Lavalin L.P. Investment Corp., COMPLAINANT (as represented by Altus Group Limited)

and

The City of Calgary, RESPONDENT

before:

***J. Dawson, PRESIDING OFFICER
R. Roy, 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:	067042408
LOCATION ADDRESS:	911 – 5 Avenue SW
HEARING NUMBER:	63963
ASSESSMENT:	\$14,420,000

This complaint was heard on the 30th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- D. Chabot Agent, Altus Group Limited

Appeared on behalf of the Respondent:

- H. Neumann Assessor, The City of Calgary

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

No objections on procedure or jurisdiction were raised.

This Board had one Assessment Review Board panel member absent however a quorum had been established as permitted in the Act;

458(2) *The provincial member and one other member of a composite assessment review Board referred to in section 453(1)(c)(i) constitutes a quorum of the composite assessment review Board.*

All parties were asked if they had any objection to the makeup of the panel and no objection was received, therefore the hearing continued as scheduled.

Property Description:

The subject property is located in the downtown commercial core. The land consists of 20,696 square feet of assessable land and a multi-storey, multi-tenanted building with 109,956 square feet of a B- quality. There are 66 assessable parking spaces on-site. The Income Approach was utilized by the Respondent calculating; a Net Operating Income of \$1,298,535 using a *capitalization rate* of 9.0%, a 13.0% vacancy rate for office space, a 2% vacancy rate for parking, \$4,800 for parking rental rate, and a *market rental rate* of \$13.00 per square foot for office space. The result is a total current truncated assessment of \$14,420,000.

Issues:

The Complainant identified two matters in section 4 on the complaint form; 1) an assessment, and 2) an assessment class, as being incorrect. After reviewing the complaint form the Complainant confirmed there was the single matter of an assessment amount to be dealt with during this hearing. These are the relevant reasons for appeal found in the Complainant's summary of testimonial evidence;

- i. chronic vacancy.

Complainant's Requested Value: \$10,000,000 (complaint form)
\$11,260,000 (disclosure document and hearing)

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

Does the assessment of the subject property recognize the chronic vacancy asserted by the Complainant?

The Board finds the assessment of the subject property is at market value and is correct, fair and equitable.

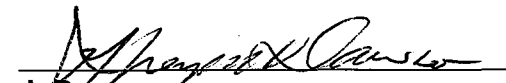
What seems to be the key issue in this hearing is; "What is chronic vacancy and is this property suffering from chronic vacancy?"

The Complainant asserted that the vacancy rate in the subject building is averaging 22% for at least three years. The rent rolls provided by the Complainant indicate a vacancy of 21.1% for July and December 2008, 22.7% for July and December 2009 and 22.7% for July and December 2010. On the surface there appeared to be an argument for a long-term, recurring vacancy issue. The Respondent provided evidence which indicates the subject was fully occupied on June 30, 2008. The Respondent further provided information to help the Board assess the chronic vacancy definition and application. While no specific policy appears to exist within the Respondent's policy manual, Board orders and general practice dictate that 36 months of continuous vacancy is required before the Respondent makes an allowance for chronic vacancy. In addition as vacancy is considered a market condition rather than a physical characteristic, one needs to look to the valuation date of July 1 in the preceding year versus December 31. The Board accepts the July 1 valuation date for considering vacancy and also finds the vacancy challenge in the subject property to be 24 months in length as of the valuation date. The Board finds the subject property is not a victim of chronic vacancy and the assessment as prepared by the Respondent is correct.

Board's Decision:

After considering all the evidence and argument before the board, the complaint is denied, and the assessment is confirmed at \$14,420,000.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF September 2011.


J. Dawson
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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	High Rise	Income Approach	Vacancy