

**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

***BCIMC Realty Corporation  
(as represented by Altus Group Limited), COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before

***L. Yakimchuk, PRESIDING OFFICER  
K. Farn, MEMBER  
G. Milne, 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: 200945343**

**LOCATION ADDRESS: 222- 3 Av SW**

**FILE NUMBER: 68117**

**ASSESSMENT: \$419,030,000**

This complaint was heard on October 18, 2012 at the office of the Assessment Review Board located at Floor Number 4 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *S. Meiklejohn, Altus Group Limited*

Appeared on behalf of the Respondent:

- *A. Czechowskyj, City of Calgary Assessment*
- *H. Neumann, City of Calgary Assessment*

### **Preliminary Matters:**

[1] The Complainant and the Respondent asked that the common Complainant Rebuttal and all questions and arguments from hearings for the week of October 15 to 18 be included in the Board's consideration for decision. These hearings include CARB hearings 2126, 2127, 2128, 2129, 2130 and 2131.

### **Property Description:**

[2] The subject, Livingston Place, is a 2007 "AA" class 859,485 square foot (sf) Downtown Commercial Core (DT1) two tower office/highrise built on a 98,952 sf Downtown Business District lot. The lot is on the north border of the DT1 District.

### **Issues:**

[3] Is this property assessed correctly? Has market value been correctly calculated using the appropriate assessment parameters? Is the assessment fair and equitable? Is the classification "AA" correct?

**Complainant's Requested Value:** \$363,810,000

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

#### **Evidence and Arguments**

[4] The Complainant, S. Meikeljohn on behalf of Altus Group Limited, stated that the subject building is rated "AA" (New). Livingston Place has two towers which are connected, but not by a retail podium. The retail element of this building is small and serves the towers. He argued that the low percentage of retail and the proximity of the towers to Chinatown and Eau Claire made the location less desirable than office towers nearer to the centre of the business district. As well, there is low connectivity to the +15 walkway connector system.

[5] Mr. Meikeljohn presented the Tenant Rent Roll for the subject property, which indicated that some of the larger tenants were paying rents of \$24/sf and \$26/sf. DT1 equity assessment rents are \$30/sf for "AA" (New) offices. He argued that full floorplate tenancies were a better indicator of rent rate than smaller tenancies.

[6] The Complainant argued further that the vacancy rate (4%) should be applied universally to retail, storage and other spaces as the rate of use of these spaces is dependent on the use of the offices in the buildings.

[7] Finally, the Complainant presented Downtown Office Sales for Market Value consideration. The sales were both 2010 "AA" class sales with values of \$455.95/sf (Capitalization [Cap] rate 6.67%) and \$438.20/sf (Cap rate 6.92%). The subject property is assessed at \$423.29/sf for the current year.

[8] The Respondent, H. Neumann, City of Calgary Assessor pointed out that the ARFI includes no new leases and the total vacant area is 4,223 sf (.49%). The typical assessed vacancy is 4% for offices and 2% for other areas.

[9] In rebuttal, the Complainant questioned the use of the second Scotia Centre sale as a basis for finding Market Value. He maintained the first Scotia Centre sale was a better indicator of market value.

[10] As well, the Complainant summarized that Livingston Place should be assessed at \$28/sf for good office space and \$20/sf for poor office space with a 6.75% Cap rate and 4% Vacancy rate for all areas. He justified the application of lower rates because Livingston Centre is one block away from the centre of the DT1 area, in a cul-de-sac, with only one +15 connection. He suggested that when vacancies do occur, it will be difficult to rent at the same rate as other "AA" buildings because of the poor location.

[11] The Respondent summarized by asking the Board to consider several judicial, MGB and CARB decisions. The City argued that mass assessments must be based on typical values and the Complainant was asking for typical and actual rates be combined to create a lower assessment.

[12] Further the Respondent argued there is no market evidence to indicate that the subject property is in a poor location, and appropriate time adjustments to dated market sales would confirm that.

[13] The Complainant concluded by stating that he was not looking for a Market Value based on actual rates, but was demonstrating that the typical rates were not reflective of buildings like Livingston Place. The location has a negative impact on its value, as it borders DT9 and is surrounded by parking lots. Time adjustment was not applied in the assessment and should not be considered in the building's valuation.

#### Board Findings

[14] The Cap rate is a direct result of the comparison to the available Market Sales. As there were only two market sales available in the assessment year, and these were sales of half shares of the same "A" class building, Scotia Centre, choosing one sale over the other could change the rate significantly. The Board reviewed the documentation attached to the Land Title Registrations for these two purchases and found that reasons to discredit either sale were possible, but speculative. As a result, the Board used both sales in a calculation of Cap rate. The actual Cap rate for Scotia Centre was, therefore, 6.69%, rounded to 6.5%. These numbers support a Cap rate of 6.25% for an "AA" (new) class building.


[15] The Board considered the rent rates and equity studies presented by both parties and concluded the typical rent rates were supported by the actual rates within the subject building and in comparable buildings. A request to increase the vacancy rate when there was almost no vacancy could not be justified. Further the rent rates and low vacancy indicate that the location of the subject property is not affecting it economically.

[16] The assessed value is also supported by Market Sales.

**Board's Decision:**

[17] The Board confirms the assessment of \$419,030,000.

DATED AT THE CITY OF CALGARY THIS 13<sup>th</sup> DAY OF November 2012.

  
Lana Yakimchuk  
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
3. R2	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 MGB Administrative Use Only:**

Decision No. 1950-2012-P

Roll No. 080007305

<b>Subject</b>	<b>Type</b>	<b>Issue</b>	<b>Detail</b>	<b>Issue</b>
CARB	DT1 Office/Retail	Income Approach	Cap Rate	Equity