

**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**

***Germain Residences Ltd.  
(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: 201562352**  
**LOCATION ADDRESS: 110 - 9 Av SW**  
**FILE NUMBER: 67762**  
**ASSESSMENT: \$32,690,000**

This complaint was heard on October 17, 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 property is an "A" (new) class boutique office and hotel building called le Germaine, with two towers connected at the upper levels. The assessment is for 87,635 square feet (sf) of office space and 2,195 sf of retail space on 27,664 sf of land in the Downtown Core (DT1) of Calgary.

**Issues:**

[3] Is the assessment a fair and equitable reflection of Market Value based on the Income Approach? Is the vacancy rate accurately reflected in this assessment?

**Complainant's Requested Value:** \$26,590,000.

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

**Evidence and Arguments**

[4] The Complainant, S. Meikeljohn on behalf of Altus Group Limited argued that the subject building should not be classified as an "A" (new) building because it is smaller than many "A" buildings and in a more remote area. Because of its unique design, it is taking longer to lease than other "A" offices.

[5] Mr. Meikeljohn stated that there are only five Class "A" (new) buildings in DT1 Calgary and that it is difficult to make typical assumptions based on such a small sample. He argued that it would be more appropriate for all such buildings to be assessed at a 5% vacancy rate rather than 4% for "A" (old) and 1% for "A" (new). In addition the Capitalization (Cap) Rate should be 6.75% for all "A" buildings.

[6] Mr. Meikeljohn did not know what the asking rate for new leases was. The vacancy at the time of assessment was 12.8%.

[7] The Respondent, H. Neumann, argued that the city does not adjust yearly for a specific

subject, but for the "class". The subject is not chronically vacant, but is a new building which is leasing slowly. In the interest of mass appraisal, the typical rates need to be applied.

[8] Mr. Neumann further explained that an equity analysis shows that typical vacancy in this class is 0.95% and the subject is assessed at 1%.

[9] The Respondent emphasized that the City is obliged to assess using Mass Appraisal techniques and using actual rates rather than typical rates would not comply with this requirement.

[10] In rebuttal, the Complainant argued that the first sale of half of the Scotia Centre value was more valid than the second sale, and should be used as the basis for calculating the Cap rate for "A" buildings.

[11] In summation the Complainant argued that this was a unique office space which would most equitably be assessed at \$25/sf because the range of rents (\$28 to \$35) included tenant inducements. Third party studies show that Le Germaine would have a typical 5% vacancy rate.

[12] The Respondent summarized by asking the Board to refer to a list of judicial, MGB and CARB decisions. The building is accurately assessed as "A" (new) and any discrepancy in the vacancy rate is probably the result of policy decisions on the part of the Complainant. This will probably correct itself over time. There are other "A" office buildings nearby which are at 0% vacancy.

#### Board Findings

[13] The Board found that 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%. The subject building is new, but it is not located on the Retail Spine as the Scotia Centre is, therefore a 6.75% Cap rate is supported for this building.

[14] The Board found that Le Germaine appears to be an atypical building attempting to develop a clientele which is suited by its offering. With a group of only five buildings, it is difficult to calculate a typical rate that is statistically accurate. The Board found that this building has a higher vacancy rate while it is new because it is atypical. For this reason, the Board adjusted the office vacancy rate to 5%, and did not adjust the 2% vacancy for Parking Stalls, according to the Complainant's request.

#### Board's Decision:

[15] The Board changes the assessment to \$30,700,000 after exemption.

DATED AT THE CITY OF CALGARY THIS 16<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	Vacancy	Equity