

**COMPOSITE  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, (MGA) Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

**between:**

***KACZ Holdings Ltd. (as represented by Altus Group Ltd.), COMPLAINANT***

**and**

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

**before:**

***C. J. Griffin, PRESIDING OFFICER***

***R. Deschaine, MEMBER***

***R. Roy, MEMBER***

This is a complaint to the *Composite Assessment Review Board* (CARB) 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: 113004220**

**LOCATION ADDRESS: 7290 – 11 Street SE**

**HEARING NUMBER: 63073**

**ASSESSMENT: \$4,420,000.**

This complaint was heard on 4<sup>th</sup> day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- K. Fong

Appeared on behalf of the Respondent:

- W. Ehler

**Property Description:**

According to the Assessment Summary Report (Exhibit C-1 pg. 13) the subject property is a free standing 20,550 Sq. Ft., owner occupied retail building that is assessed as being a 'B' Class retail warehouse. The building, which was constructed in 1990, sits on a 1.00 acre site.

The property has been assessed through application of the Income Approach to Value (Exhibit C-1 pgs. 14 & 15) with a main floor rental rate of \$17/Sq. Ft. being applied and a second floor rental rate of \$15/Sq. Ft. being applied. A vacancy rate of 1% is applied to the main floor retail space and a rate of 9% is applied to the office space. Operating costs are allocated at \$7/Sq. Ft. and a non-recoverable allowance of 1% is also used. The Assessor has applied a capitalization rate of 7.50%.

**Issues:**

While there are a number of interrelated issues put forth on the Assessment Review Board Complaint form, the Complainant indicated at the Hearing that the issues to be considered by the CARB are reduced to:

1. The assessment of the subject property is in excess of its market value for assessment purposes.
2. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of similar properties.
3. The second floor has been improperly assessed as office space when it should be assessed as mezzanine space with a \$1/Sq. Ft. rate.

**Complainant's Requested Value:** \$2,830,000.

**Party Positions:****Complainant's Position**

The Complainant contends that the subject property is, for assessment purposes, a free standing retail/warehouse property; however, the Assessor has done away with that classification for this assessment year and has re-classified the property as being a "B" Class Jr. Big Box store. In the judgment of the Complainant the classification is incorrect and it should be classed as a "C" Class Jr. Big Box. If the property were to be re-classified as suggested by the Complainant the resulting in-puts for that classification would reduce the assessed value of the property to that requested by the Complainant. Additionally, the Complainant maintains that the second floor office space has been improperly assessed as office space, with an applied rental rate of \$15/Sq. Ft., when it should be considered as mezzanine space with an assessed rental rate of \$1/Sq. Ft. With regard to this latter matter, the Complainant maintains that the second floor space in the subject property is only accessible from the interior of the property and that it should more accurately be considered as mezzanine space. The Complainant produced (Exhibit C-1 pgs. 19 – 22) photographs of the exterior of the subject property. In referring to these photographs the Complainant pointed out that the subject property has only something in the range of 22 parking stalls equating to a ratio of approximately 1 stall/1,000 Sq. Ft. which is less than would normally be associated with a Jr. Big Box store.

In support of their contention the Complainant introduced (Exhibit C-1 pgs 29 – 35) photographs and the assessment details of a property (Barbeques Galore 3505 Edmonton Trail NE) considered to be very comparable to the subject. This property is (Exhibit C-1 pg. 33) classified by the Assessor as a C- retail warehouse. The property, which has a year of construction (YOC) of 1979, contains some 27,736 Sq. Ft. of assessed space and it sits on a 1.44 acre site.

The assessment of this property is based upon the Income Approach but the assessed rental rates are \$12/Sq. Ft. for the main floor retail space and \$1/Sq. Ft. for the mezzanine level office space. Additionally, the Complainant brought forward (Exhibit C-1 pg. 35) eight (8) lease comparables in support of their requested \$12/Sq. Ft. rate. These comparables, which are located in every quadrant of the city, equate to spaces ranging from 14,560 Sq. Ft. to 37,920 Sq. Ft. with lease start dates between March 2007 and February 2010. The reported lease rates range from \$10.50/Sq. Ft. to \$14/Sq. Ft. and indicate a median of \$13.25/Sq. Ft. The Complainant also introduced (Exhibit C-1 pg. 36) thirteen (13) equity comparables with assessed rental rates of \$12/Sq. Ft. These comparables are located in various parts of the city and the space in question ranges from 14,500 Sq. Ft. to 37,920 Sq. Ft. The Assessment Summary Report for nine (9) of these comparable properties is presented (Exhibit C-1 pgs. 39 – 55). Included in this group of comparables is a property located at 7275 – 11 Street SE (directly across the street from the subject) which has exactly the same reported Subproperty Use (CM0323 Retail – Ret Whse – located on a main traffic artery) and which has a YOC of 1992 but the property is classed as being in the 'C' category. Reviewing the photograph of this property (Exhibit C-1 pg. 38) to those of the subject property (Exhibit C-1 pgs. 19 – 22), the comparable appears much more modern and less warehouse like than does the subject.

In terms of the Complainant's request that the second floor space of the subject property be treated as mezzanine space with a lease rate of \$1/Sq. Ft., the Complainant introduced (Exhibit C-1 pgs. 58 – 78) several examples of mezzanine space which has indeed been assessed with a rental rate of \$1/Sq. Ft.

### **Respondent's Position**

The Assessor introduced (Exhibit R-1 pgs. 12 – 22) photographs of the subject property concentrating on the interior of same and the disputed second floor space. Additionally, the Respondent introduced (Exhibit C-1 pg. 28) a one page summary of the retail capitalization rates, by property category, as applied by the Assessor together with the vacancy rates and the operating costs, also by property category, as applied for assessment purposes. The Respondent did not produce any back-up or further explanation as to where or how these various rates were derived. The Respondent also introduced (Exhibit R-1 pg. 44) eight (8) lease comparables, three of which were highlighted being from the property located across the street from the subject at 7275 – 11 Street SE. The aforementioned three (3) leases indicate lease rates of \$10.50/Sq. Ft., \$13.50/Sq. Ft. and \$14/Sq. Ft. The indicated median of all eight (8) leases is \$13.25/Sq. Ft. The eight (8) lease comparables were from all quadrants of the city and ranged in size from 14,500 Sq. Ft. to 37,920 Sq. Ft. and the lease commencement dates varied from March 2007 to February 2010. Additionally the Respondent introduced (Exhibit R-1 pg. 45) twelve (12) equity comparables, from various parts of the city, all of which have been assessed using a \$12/Sq. Ft. lease rate. The aforementioned twelve comparables included three high-lighted entries from the property across the street at 7275 – 11 Street SE. The Respondent further introduced (Exhibit R-1 pgs. 46 – 51) a copy of a CARB Decision (2166-2011-P) which deals with an appeal of the assessment of a property located at 6999 -11 Street SE and which was, it was suggested, based upon similar evidence to that presented for this Hearing. In that Hearing the CARB upheld the assessed rental rate of \$17/Sq. Ft. for that "B" Class Jr. Big Box store. Additional lease comparables for the Jr. Big Box category (14,001 – 50,000 Sq. Ft.) were presented by the Respondent (Exhibit R-1 pg. 66) showing lease rates ranging from \$12.50/Sq. Ft. to \$30.91/Sq. Ft. and indicating a median of \$17/Sq. Ft. As further support for their position the Respondent also produced (Exhibit R-1 pgs. 67 & 68) some sixty-two (62) examples of Jr. Big Box stores that have been assessed using a rental rate of \$17/Sq. Ft.

**Board's Decision:**

The assessment is allowed, in part, and the assessment is **reduced** to: **\$3,150,000.**

**Decision Reasons:**

The CARB is of the judgment that the subject property, which through questioning was acknowledged as being a former warehouse property that has been converted to retail use, does appear, largely through photographic evidence, to be improperly classified as a "B" Class property and should be re-classified as a "C" Class property. One of the significant factors considered by the CARB in making the foregoing determination is the poor parking and lack of vehicle manoeuvring room of the subject property which is apparent in the aerial photograph shown on page 11 of Exhibit R-1. Additionally, the CARB considers the property located across the street from the subject at 7275 – 11 Street SE, presented by both parties as a comparable, to be superior to the subject in terms of parking and loading access, exposure, exterior appearance and general aesthetic appeal to the subject yet same is classed as being a "C" Class property. When questioned by the CARB as to what the determining factors are for property classification, the Assessor indicated location, exposure, YOC and the rents being achieved. The last factor is a concern for the CARB as the rents being achieved are not a valid basis for comparison. This viewpoint is shared in "*Real Property Assessment*" published by the *Sauder School of Business Real Estate Division, U. of BC* which states:

*"The price per unit of comparison is the dependant variable – what is being estimated – in the valuation model. The value of the dependant variable is predicted by (or depends on) the value of other variables, such as property attributes. **The unit of comparison should never be the grounds for selecting comparables.** Property attributes should be used instead."* (Emphasis added)

The CARB derived further support for reducing the classification, and thus the assessed rental rate, of the subject property by the Respondent's own evidence (Exhibit R-1 pgs. 44 & 45) which appears to have been prepared for another property but which fully supports the Complainant's requested \$12/Sq. Ft. assessed rental rate.

With regard to the Complainant's request that the second floor area be assessed as mezzanine space as opposed to second floor office space, the CARB reviewed the photographic evidence presented by the Respondent of the space in question and noted that the Complainant did not provide any photographs of this space. The subject space appears to be conventional office space not mezzanine space and, with no evidence to suggest the contrary, the CARB is of the judgment that it is properly assessed as such. There was no evidence from either party dealing with second floor office lease rates so the CARB maintained the requested \$12/Sq. Ft. rate applied to the main floor space.

The CARB wishes to make note of the fact that the evidence of the Respondent appears, for the most part, to deal with a property other than the subject. The CARB notes Exhibit R-1 pgs. 12 through 24 all refer to another property as being the subject, not the property that is the subject of this Hearing. The CARB's expectation is that the Assessor would proof read their materials more carefully before presenting same before this Board.

DATED AT THE CITY OF CALGARY THIS 17 DAY OF October 2011.

  
C. J. Griffin, Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Disclosure
2. R1	Respondent's 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.*