

**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:

Second Real Properties Limited (as represented by Colliers International Realty Advisors), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, M. Peters
Board Member 2, J. Massey***

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: 067048108

LOCATION ADDRESS: 700 - 6 Avenue S.W.

HEARING NUMBER: 61128

ASSESSMENT: 25,860,000.00

This complaint was heard on 19 day of September, 2011 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Eight.

Appeared on behalf of the Complainant:

- *S. Miekkeljohn*

Appeared on behalf of the Respondent:

- *D. Grandbois*

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

There were no procedural or jurisdictional matters to be dealt with.

Property Description:

The subject consists of the Bantrel Building, which is a class B office building located in zone DT2, being the westerly portion of the downtown core. The building area is 225,037 s.f. of which 218,943 s.f. is office, and 4,497 s.f. is retail space. There is 1,597 s.f. classified as storage. The improvement was built in 1968. There are 31 parking stalls.

Issues:

The premises are currently assessed using the income approach. The rent applied by the City is \$14.00 per s.f. for the office area, and \$21.00 for the retail area. The parking is included at \$400.00 per month. The assessed vacancy rate is 13.0 per cent. The capitalization rate applied is 9.00 per cent. The current assessment calculates to \$114.92 per s.f. of building area. The Complainant does not dispute the valuation method.

Following are the issues presented .

1. The building class ought to be changed to B-, which would result in a change in office rent from \$14.00 per s.f. to \$13.00.
2. A vacancy allowance of 20 per cent is more appropriate

There are no other issues.

Complainant's Requested Value: \$19,070,000.00.

Evidence

The Board notes that the assessment has decreased from \$40,030,000.00 in 2010 to the current level in 2011.

The Complainant takes the position that the subject building should be reclassified from class B to class B- because of the subject's atypical features. The building was built in 1968. The floor plate, according to the Complainant, is smaller than typical. The parking-to-office space ratio is about one stall for every 7,000 s.f. of office space. A more typical ratio in the downtown core is one stall for every 2,500 s.f. These aspects adversely affect the subject's rentability, resulting in a higher-than typical chronic vacancy. The Complainant submits that the average vacancy in the

subject is about 24 per cent, and that the current vacancy stands at 25 per cent. No new leases have been signed in the past 18 months. Those assertions are unchallenged by the Respondent. According to the City of Calgary 2010 ARFI Vacancy Study, the subject's vacancy stood at 21.26 per cent at the time the survey was taken. The overall vacancy of the buildings surveyed appeared at 12.28 per cent. The subject's vacancy history, as submitted by the Complainant, reveals chronic high vacancies since 2002, with some exceptions during the "buoyant" economic times. However, in all of the periods surveyed, the subject's vacancy was higher than the total survey sampling.

The result of a reclassification of the subject to B- would result in a change in office rent to \$13.00 per s.f. Except for the assessment parameters used by the City for rent rates for different building classes, the Complainant submitted no rental evidence to support the request.

The Respondent submitted that the subject is +15 connected, is on the C-Train tracks, and meets all of the criteria for a Class B building. The Respondent also argued that there is no market evidence submitted to support a change in the office rental rate. The Respondent also submitted the subject's Assessment Request for Information (ARFI) forms that show the majority of the subject's office rents at \$20.00 per s.f. or more. All of the lease shown on the ARFI date back to 2008 and prior.

Board's Decision

The Board accepts that the fairest and most reasonable assessment comes from an income approach wherein the inputs are typical for each class of property. This Board will not change this building's classification based on the evidence presented. Hence, the Complainant's argument relative to the office rent fails. At the same time, there is ample evidence to show that the subject suffers from inordinately high vacancy, and has consistently done so for some time.

Section 289(2) on the Municipal Government Act states, in part, "*Each assessment must reflect (a) The characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed.....*".

The Act is quite clear, and is not optional.

Part 1 of the Matters Relating to Assessment and Taxation Regulation also states (in part) under Standards of Assessment;

"An assessment of property based on market value

- (a) Must be prepared using mass appraisal*
- (b) Must be an estimate of the value of the fee simple estate in the property, and*
- (c) Must reflect typical market conditions for properties similar to that property."*

Again, the wording is not optional. Even a mass appraisal model must reflect "typical" market conditions for properties similar to that property (the subject). No evidence was presented to indicate that the subject's vacancy resulted from inordinately high rents. Still, there was ample evidence to show that the subject suffers from a chronic high vacancy, whether it be caused by lack of parking, or some other inherent feature. That high vacancy is, in the opinion of this Board, a "characteristic" of that property that must be reflected in the assessment of that or similarly affected properties.

The Board accepts 20 per cent as the typical vacancy for the subject property.

All of the inputs of the City's income approach calculations are unchanged except the vacancy allowance, which is increased to 20 per cent.

The assessment is reduced to \$20,980,000.00

DATED AT THE CITY OF CALGARY THIS 7 DAY OF OCTOBER, 2011.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

-
1. C1 Complainant Submission of Evidence,
 2. R1 City of Calgary Assessment Brief

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

<i>Decision No. 1499/2011 - P</i>			<i>Roll No. 016202202</i>	
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	3. Office	High Rise	Income approach	Vacancy