

**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: 067056390

LOCATION ADDRESS: 801 - 6 Avenue S.W.

HEARING NUMBER: 61142

ASSESSMENT: 108,000,000.00

This complaint was heard on 20 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. Lidgren*

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 Amec Place, which is a 28 storey class A- office building located in zone DT2, being the westerly portion of the downtown core. The building area is 404,845 s.f. of which 391,715 s.f. is office, 13,130 s.f. is retail space, and 10,111 s.f. is storage. There are 261 parking stalls. The improvement was built in 1982.

Issues:

The premises are currently assessed using the income approach. The rent applied by the City is \$19.00 per s.f. for the office area, \$30.00 per s.f. for the main floor retail area, and \$25.00 for the second storey retail. The parking is included at \$475.00 per month. The assessed vacancy rate is 7.00 per cent for the office and retail areas, and 2.00 per cent for the parking. The capitalization rate applied is 7.50 per cent. The current assessment calculates to \$266.77 per s.f. of building area.

The Complainant does not dispute the valuation method. Following are the issues as presented.

1. The building should be classified as a B+ office building, rather than A-.
2. The office rent ought to be \$14.00 per s.f.
3. The retail rent should be \$17.50 per s.f. for both the main and second floors.
4. A capitalization rate of 9.00 per cent is more appropriate
5. The assessment is not equitable with similar buildings

There are no other issues.

Complainant's Requested Value: \$68,920,000

Evidence

The Board notes that the assessment has decreased from \$117,890,000 in 2010 to the current level in 2011.

1.) Building Classification

Neither party presented any specific evidence to either support or discredit the current building classification. The "blanket" statement offered by the Complainant is that the subject building "performs" more like a class B+ building rather than an A- building. In the

opinion of the Board, the physical differences in classes are not clear and can be subject to interpretation. The difference in performance, on the other hand, is a question of achievable rents, vacancy allowance, operating costs and, ultimately, capitalization rate. And, each of those is dealt with separately in the issues presented by the Complainant.

2.) Office Rent

The subject's main tenant, AMEC BDR Limited occupies 46,328 s.f on floors 13 to 15. The lease start date was January 2010. The contract rent is \$17.00 per s.f. The Complainant also submitted 26 rent comparables . All except seven of these are post facto rents. The seven that occurred prior to the July 1, 2010 effective date showed a median rent of \$13.32 per s.f.

The Respondent presented the Assessment Request for Information sheets (ARFI) for the subject. Except for the AMEC BDR lease, and an August 1, 2010 lease to Alberta Infrastructure, there are no 2010 leases with which to gauge a typical rent for the period. The Alberta Infrastructure lease is at \$15.61 per s.f. It is noted, however, that the annual operating costs attached to that lease are \$15.00 per s.f., which is almost twice the rate applied to any other tenant in the building. Except for some debate about the legitimacy of the lease, neither party could offer any explanation regarding the operating costs, or the terms and conditions of the contract. The Respondent also submitted a 2011 Downtown class A- DT2 rental analysis. The mean of all of the leases is \$24.14 per s.f. The median is \$23.50, and the weighted mean is \$22.50 per s.f. Effective dates are 2009 and 2010. The analysis contained one lease from the subject, at \$17.00 per s.f. which is approximately 26 per cent lower than the mean or median of the properties surveyed.

Third party reports place the class A office rent for Q2, 2010, at \$20.00 to \$23.00 per s.f. For class B buildings, the rent ranges between \$12.00 and \$16.00 per s.f.

3.) Retail Rent

The Complainant submitted three rent comparables for the subject's retail portion. The three comparables showed retail rents of \$15.00, \$12.00, and \$12.51 per s.f. The two latter rents are from 2006 and 2007. The \$15.00 rate is from a April, 2010, lease, or lease renewal. Three retail leases within the subject building showed rents of \$18.00, 12.50 and \$19.50 per s.f. However, all three leases date back to 2002 through 2004.

No retail rent evidence was presented by the Respondent. Rather, the Respondent argued that the typical retail rent contained within the City's model was \$30.00 and \$25.00 per s.f. for main and second floor space in class A buildings, and that was the rate that should apply to the subject.

4)Capitalization Rate

Most of the evidence submitted by either party relative to capitalization rates consisted of third party reports. Colliers International reported downtown office capitalization rates in Calgary for Class B buildings for Q2, 2010, at a low of 8.00 per cent, to a high of 9.00 per cent. CBRE reported a range of 9.00 to 9.50 per cent for downtown class B buildings in Q2, 2010. Other reports for class B buildings in Q2 2010, included Altus Insite at 7.30 per cent to 9.00 per cent.

In addition, the Complainant offered an analysis of the two most recent downtown office building sales to produce an appropriate capitalization rate. The two transactions involved the Plains Midstream building and Gulf Canada Square, in October, 2007, and December, 2007. These transactions were used by the City to provide a basis for the City's capitalization rates for downtown buildings in prior years. The Complainant argued that typical market coefficients should be used to derive an appropriate capitalization rate. The Respondent used actual rents. According to the Complainant, the use of typical rents would have increased the capitalization rates from 6.87 and 6.72 per cent to 7.79 and 7.85 per cent respectively.

5.)Equity

The Complainant submitted eight equity comparables. Five of the properties reflected assessments of \$154.52 to \$276.39 per s.f. The Complainant submitted that these were superior to the subject, although there was no explanation as to how they were superior. Three of the comparables reflected assessments of \$131.15 to \$161.40 per s.f. These, the Life Plaza, McFarlane Tower, and 715-5 Ave. SW. are considered by the Complainant to be similar to the subject.

Board's Decision

2 & 3) Rent

Neither party submitted conclusive evidence regarding the appropriate office and retail rent levels for the subject. However, even the Respondent's own evidence is sufficient to show that the subject is not achieving office rents equivalent to the level of other class A buildings, but rather is more similar to a class B building. Similarly, the Complainants retail rent evidence is the most convincing. The Board accepts \$17.00 per s.f. as the appropriate rent for the subject's office space, and \$17.50 per s.f. for the subject's retail space. The \$10.00 per s.f. rate for the storage space was unchallenged. Similarly, the \$475.00 per month for the parking stalls was unchallenged.

4) Capitalization Rate

The third party reporting agencies constituted the bulk of the evidence submitted by either party. The bulk of the evidence appears to support a capitalization rate between 8.0 and 9.0 per cent. In the opinion of this Board, an 8.0 per cent capitalization rate, which is near the median of the overall range, is considered to best represent the subject.

5)Equity

The Complainant's requested assessment calculates to \$170.24 per s.f. That total is higher than the assessments on the three properties submitted by the Complainant as being comparable to the subject. However, as previously mentioned, the Complainant was unable to demonstrate why some of the comparables submitted were superior to the subject, while others were similar.

In past MGB decisions, it has been stated that "the onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide

convincing evidence to justify a change in the assessment." While the foregoing speaks of assessments in general, the same principle applies to any individual component of an assessment.

The Complainant's argument based on equity on its own merits fails.

All of the inputs used in the City's capitalization approach are unchanged except for the rents as noted, and the capitalization rate. Using the amended inputs, the assessment calculates to \$91,270,625. The revised assessment is truncated to \$91,270,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF OCTOBER, 2011.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

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1. C1 Complainant Submission of Evidence,
 2. C2 Complainant , Non-Residential Properties – Income Approach Valuation
 3. C3 Complainant 2011 Capitalization Rate – Rebuttal Submission
 4. 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.*
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| Decision No. 2328/2011 - P | | | Roll No. 067056390 | |
| <u>Subject</u> | <u>Type</u> | <u>Issue</u> | <u>Detail</u> | <u>Issue</u> |
| CARB | 3. Office | High Rise | Income approach | Lease Rates, capitalization rate |