

**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:**

***Canadian Property Holdings (Alberta) INC., COMPLAINANT  
(Represented by ALTUS GROUP LTD.)***

**and**

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

**before:**

***Board Chair P. COLGATE  
Board Member Y. NESRY  
Board Member D. POLLARD***

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: 200101657**

**LOCATION ADDRESS: 5303 68 AVENUE SE**

**HEARING NUMBER: 64257**

**ASSESSMENT: \$7,360,000.00**

This complaint was heard on 19 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:

- *Doug Hamilton, Altus Group Ltd. – Canadian Property Holdings (Alberta) Inc.*
- *Andrew Izard, Altus Group Ltd. – Canadian Property Holdings (Alberta) Inc.*

Appeared on behalf of the Respondent:

- *Margaret Byrne - Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

**Property Description:**

The subject property is a retail strip centre located at 5303 68 Avenue SE. The site is improved with four structures with a combined retail and office space totalling 20,763 square feet. The parcel is situated on 3.43 acres of land with a Land Use Designation of Commercial – Neighbourhood 2.

**Issue:**

What is the correct rent rate to be applied to the bank space?

**Complainant's Requested Value:** \$6,550,000.00

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

Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

The Board reviewed evidence specific to the issue.

**ISSUE:** What is the correct rent rate to be applied to the bank space?

Complainant's Evidence:

The Complainant is requesting a rent rate of \$32.00 be applied to the bank space.

The Complainant entered a very censored Rent Roll into evidence which showed the bank space, Occupied by Servus Credit Union, was renting the 6046 square foot space for a base rent of \$35.75 per square foot. The Start date was October 16, 2008, with an occupancy date of December 17, 2009. (C1, Pg. 30)

The Complainant submitted Decision CARB 0989/2011-P with specific reference to the Board's reduction of a rent rate applied to a bank space. The Decision, although dealing with bank space located in a power centre, does take into consideration the lack of superiority of one location over another comparable location. (C1, Pg.22-29)

The Complainant submitted a portion of the "Alberta Assessors' Association Valuation Guide" with reference to "3.0 Determining Market Rents – Determining Market Rents as of the Valuation Date". The Complainant had highlighted the following section –

**"Base Rent**

To determine the current market rent for each tenant, the following guidelines are provided (in order of descending importance):

1. For most tenants the best source of market rent information is the rent roll. Using these rent rolls, the best evidence of 'market' rents are (in order of descending importance):
  - Actual leases signed on or around the valuation date.
  - Actual leases within the first three year of their term as of the valuation date.
  - Current rents for similar types of stores in the same shopping centre
  - Older leases with active overage rent or step-up clauses." (C1, Pg. 31-36)

The Complainant submitted a total of nineteen bank spaces as equity comparables. The comparables ranged from a premise with 4,640 square feet, rated at \$30.00 per square foot, to the largest premise with 23,841 square feet, rated at \$32.00 per square foot. The Board found, based upon the documents submitted there was no correlation apparent between premise area and the rent rate assigned. Some of the documents did inform the Board the bank spaces were located in strip shopping centres, power centres and suburban office buildings. (C1, Pg.37-80) (The Board noted there were a large number of duplicate pages presented in the Complainant's comparables)

In testimony the Complainant emphasized the unique location of the subject bank, being in an industrial area which is very dissimilar to a power centre, residential area or more developed retail location.

**Respondent's Evidence:**

The Respondent submitted the 2011 Bank Lease Study. Starting for 2011 The City of Calgary stratifies all banks, with the exception of those located in power centres or suburban offices, solely upon their year of construction into one of five groups. (R1, Pg. 21) No regard to location, physical characteristics, type of property or any other factor is considered in the stratification. The subject property, constructed in 2008, fell in the group identified AYOOC (Actual Year of Construction) 2008 and newer. A total of nineteen bank premises fall into this group with calculated statistics, based upon lease rates, as follow –

Average	\$43.51
Weighted Average	\$43.41
Median	\$43.00
Assessed Rate	\$43.00

Leases in this grouping ranged from \$26.00 to \$58.00 per square foot.

The Respondent submitted three Decisions – LARB 0157/2011-B, LARB 0365/2011-B and CARB 1311/2011-P – which confirmed the rent rates applied to bank spaces.

The Respondent acknowledged this was the only bank known to be located in an industrial area.

### **Findings of the Board**

#### **Complainant's Submission:**

The Board found the location of the bank in an industrial area presented differing factors that influenced the market value of the subject property compared to other bank premises – exposure, hours of operation, client base.

The Board found the portion taken from the Alberta Assessors' Association Valuation Guide speaks to the obtaining of lease information, not to the direct application of site specific leases to the determination of assessments for a property. The Board refers to 'Matters Relating to Assessment and Taxation Regulation (MRAC)' which sets out the following for establishing the assessment –

**2 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.

It is this final condition the Board will address for this situation – 'must reflect typical market conditions'.

The Board found the equity comparables provided by the Complainant come from diverse situations – strip centres, power centres, suburban offices – and therefore provide little aid to the Board. The lack of complete information with respect to each comparable restricts the quality of the submission.

#### **Respondent's Submission:**

The Board accepts that the subject property falls within the grouping identified as "AYOC 2008 and newer" and the lease falls within the range for the grouping. As a grouping the median is a good indicator of typical market value, when other factors are equal in the market place.

The Decisions submitted by the Respondent do confirm the assessment rates applied in each case, based upon lease comparables submitted. Contrary to the statement by the Respondent that the Decisions accept the City of Calgary's methodology, the Board finds Decisions speak to the inconsistencies and rely more on the comparables than the stratification.

The Board noted the Respondent's response that the subject bank space was the only bank premise known to be located in an industrial area and is unique from all other banking premises.

**Board's Decision:**

To quote from LARB 0365/2011-B, "the ultimate task before the Board is to determine market (lease) value as it relates to the subject property and as supported by market evidence presented by both parties."

The Board found in favour of the Complainant and reduces the rent rate applied to the bank to \$32.75 per square foot, the actual lease in place. It was considered to be the best indicator of a market rate for the subject. The Board found the unique location of the subject property in an industrial area is inferior to the comparable bank premises submitted and thus a negative influence on the market value. The atypical market conditions for the subject were the primary consideration when making the decision of the market value of the subject. The Board accepted, for this premise, the actual lease was a better indicator of market value.

The Board reduces the assessment to \$6,830,000.00.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF November 2011.

  
Philip Colgate  
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. R1	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 ADMINISTRATIVE USE**

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Strip Plaza	Income Approach	-Net Market Rent/Lease Rates