

# **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:

***IVAG INVESTMENTS LTD.***  
***(as represented by MNP LLP), COMPLAINANT***

and

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

before:

***Earl K. Williams, PRESIDING OFFICER***  
***K. B. Bickford, MEMBER***  
***A. Maciag, 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 2013 Assessment Roll as follows:

**ROLL NUMBER: 068053206**

**LOCATION ADDRESS: 404 6 AV SW**

**FILE NUMBER: 70747**

**ASSESSMENT: \$29,780,000**

This complaint was heard on 26<sup>th</sup> day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- G. Worsely Agent, MNP LLP
- W. Van Bruggen Agent, MNP LLP

Appeared on behalf of the Respondent:

- E. Curry Assessor, The City of Calgary

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

- [1] No Procedural or Jurisdictional Matters were raised by the parties.

**Property Description:**

[2] The subject property at 404 6 AV SW is a 92,968 square foot (sq. ft.) office building on 0.32 acre of land with a 1970 year of construction (yoc) assigned a B- quality rating in the Downtown Commercial Core in Downtown Zone 1 (DT1) with the Property Use: Commercial and Sub Property Use: CS1200 Office.

[3] The assessment was prepared on the Income Approach with a capitalization rate (cap rate) of 5.00%, a rental rate of \$19.00 per square foot (psf) for the office space and a vacancy rate of 3.25%.

**Issues:**

[4] Should the subject property be assessed on the Income Approach with the assessed office rental rate reduced from \$19.00 psf to \$18.00 psf?

[5] Should the subject property be assessed on the Income Approach having the office vacancy rate increased from 3.25% to 3.75%?

[6] Is the current assessed cap rate of 5.00% reflective of the market conditions as of the designated valuation date or is the correct capitalization rate to apply 6.00%?

**Complainant's Requested Value: \$23,390,000**

**Board's Decision:**

[7] Based on the evidence and argument presented the Board supports the cap rate of 5.0%, the vacancy rate of 3.25% and a reduction in the office rental rate to \$18.00 psf in the determination of the assessment.

[8] The assessment is reduced to \$28,330,000.

**Position of the Parties**

[9] The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[10] The Complainant's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2013 Property Assessment Notice, the Property Assessment Detail Report, and the City of Calgary Non-Residential Properties – Income Approach Valuation work sheet. In support of the vacancy rate the evidence included the MNP's "B-" Vacancy Analysis. For the office rental rate the evidence included recent leasing activity in the subject property and MNP's "B-" Lease Study for DT1. In support of the cap rate issue the Complainant submitted an overview of the City of Calgary and the MNP methodology, an analysis of a number of comparable properties including supporting documentation, market studies on cap rates, excerpts from applicable legislation, excerpts of technical information related to capitalization rate methodology, excerpts of decisions from the Alberta Court of Queen's Bench, as well as Assessment Review Board and Municipal Government Board decisions in support of their position.

[11] The Respondent's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2013 Property Assessment Summary Report, and the City of Calgary Non-Residential Properties – Income Approach Valuation work sheet. In support of the vacancy rate the evidence included the City of Calgary 2013 Downtown Office Vacancy Analysis: B-DT1. In support of the rental rate the evidence included the City of Calgary 2013 Downtown Office Rental Rate Analysis: B- Class in DT1& DT8. In support of the cap rate issue the City of Respondent submitted an overview of the City of Calgary Capitalization Rate Summary, the analysis of a number of comparable properties including supporting documentation, excerpts from applicable legislation, excerpts of technical information, as well as Assessment Review Board and Municipal Government Board decisions in support of their position.

[12] As noted above, both parties placed before this Board a number of Alberta Court of Queen's Bench, Assessment Review Board and Municipal Government Board decisions in support of their position. These decisions were made in respect of issues and evidence that may however be dissimilar to that before this Board.

**Issue – Capitalization Rate****Complainant's Position:**

[13] The Complainant argued that the methodology utilized by the City of Calgary in the derivation of the cap rate is based on flawed assumptions related to the development of the net operating income (NOI). One assumption that is challenged is the absence of consistency in the application of time frames. For example, the use of income parameters from July 1, 2010 to July 1, 2011 to calculate the NOI to derive the cap rate for sales occurring in the period July 1, 2011 to December 31, 2011, is flawed as there is a difference in timing by up to 6 months. The NOI is not reflective of the period when the transaction occurred. The Complainant purposes that the 12 month period used to determine the income to calculate the NOI should be the same as the 12 month period during which the sale occurred. For example the income parameters for the period July 1, 2011 to July 1, 2012 should be used for sales which occurred in that same 12

month period. Details on the Complainant's position are provided on pages 24 to 41 of Exhibit C1.

[14] A second concern expressed by the Complainant related to the practice of the City of Calgary to include portfolio sales in the derivation of the cap rate. The Complainant's primary concern with portfolio sales is the difficulty in determining what the actual value is for each property included in the portfolio. Supporting documentation for this position is provided on pages 45 to 77 of Exhibit C1.

[15] Page 27 of Exhibit C1 presents the parameters used by the City of Calgary for the income approach to assess downtown office buildings in the DT1 and DT2 zones. The cap rate by office classification for DT1 and DT2 is as follows:

<u>Office Classification</u>	<u>Cap Rate</u>
AA New/AA/A/A-	6.00%
B/B-	5.00%
C/C-	5.50%

[16] The Complainant reviewed the MNP Capitalization Rate Study (pages 82 to 109 of Exhibit C1) for the period July 1, 2011 to July 1, 2012. Their methodology excludes portfolio sales and calculates the NOI based on rental rates for the same 12 month period as the sales. The table on page 82 presents particulars on the 5 sales in DT1 and DT2 on which the MNP study is based. The 5 sales include 3 Class A, 1 Class B and 1 Class C building. The median capitalization rate determined by the study is 6.02% which is rounded to 6.00%. This cap rate would be applied to all downtown office classifications.

[17] As further support the Complainant reviewed the details on the Class B transaction reported in paragraph [16]. This January 2012 transaction is reported by the Complainant as an office building in DT1 and derived a cap rate of 5.87%.

[18] As additional evidence the Complainant reviewed the CBRE Canadian Cap Rate Study (page 271/272 Exhibit C1) for Q2 2012 which reported a range of 6.25% to 7.0% for downtown Class B buildings.

[19] In summary the Complainant argued that the MNP methodology determines a cap rate on consistent assumptions of 6.0% which is to be allied to the subject property.

#### **Respondent's Position:**

[20] The Respondent presented an argument in defence of the methodology used to determine the cap rates used in the income approach valuation.

[21] A table titled 2013 Downtown Office Capitalization Rate Summary on page 55 of Exhibit R1 presented details on 16 transactions for Class A, B and C buildings reported for the period 2011 and 2012. The Class B transactions included B and B- buildings. An analysis by building class and year provided further details.

[22] The analysis of all the B transactions reported a median and mean cap rate of 4.82%. A further analysis of the 2012 Class B transactions reported a mean of 5.07% and a median of 5.02%.

**Board's Reasons for Decision:**

[23] The Respondent and Complainant outlined their respective positions on cap rate methodology and the cap rate for Class B buildings. Specifically:

- 1) Respondent – the mean of 5.07% and median of 5.02% is based on a sample of 2 B buildings, one B/C blend which are 2012 transactions.
- 2) Complainant – argued for a 6.00% cap rate regardless of building class and highlighted one B Class transaction with a cap rate of 5.87%.

[24] The Board determined that the Respondent's evidence related to the B Class transactions was more representative of the market and there is a lack of compelling evidence to support a change on the cap rate.

[25] Based on the evidence and arguments presented the Board confirms the cap rate of 5.0% in the determination of the assessment.

**Issue – Vacancy Rate**

**Complainant's Position**

[26] The Complainant reviewed the MNP "B-" Vacancy Analysis for DT1 on page 21 of Exhibit C1. The study reports a 3.89% vacancy based on a sample of 12 "B-" class office buildings in DT1.

**Respondent's Position:**

[27] The Respondent on page 53 of Exhibit R1 presents a table titled the City of Calgary 2013 Downtown Office Vacancy Analysis: B- DT1. The study reports a 3.35% vacancy based on the same sample of 12 buildings as reported by the Complainant.

**Board's Reasons for Decision:**

[28] The Complainant and Respondent used the same sample of 12 B- Class DT1 buildings in the vacancy analysis. Their respective analysis reported vacancy of 3.89% versus 3.35%. Neither party provided the effective date of the analysis.

[29] The Board reviewed the analysis presented by the parties and determined that 4 of the 12 properties reported a different vacancy rate in one study versus the other. The difference in the reported vacancy rate for 3 of the 4 buildings ranged from .03% to .54% and was considered by the Board as not significant. The vacancy for the 4<sup>th</sup> building of the identified four, 444-5th Av SW, differed by 5.08%. The Complainant reported a vacancy of 7.89% and the Respondent reported 2.81%.

[30] If the building identified in the paragraph [29] is excluded from the analysis and the sample reduced to 11 buildings, the vacancy rate is 3.40% for the Respondent sample and 3.5% for the Complainant sample.

[31] Based the arguments and evidence presented the Board confirms the 3.25% vacancy rate.

**Issue – Office Rental Rate****Complainant's Position**

[32] The Complainant reviewed the table titled Recent Leasing Activity at 404 6 Ave SW on page 22 of Exhibit C1. For the period Oct 2011 to July 2012 a total of 35,390 sq. ft. (38.1% of the office area) was leased to 6 tenants at a median rental rate of \$16.50 psf.

[33] A table titled MNP's "B-" Lease Study for DT1 on page 23 of Exhibit C1 reported lease particulars on 35 leases with commencement dates in the period July 2011 to July 2012. The median rental rate was \$16.00 psf and the mean \$15.82 psf.

[34] The Complainant reported that an analysis of the 11 leases for the period January 2012 to July 2012 determined a rental rate median of \$18.00 psf and a mean of \$17.32.

[35] In Summary the Complainant argued that the leasing in the building and the market leases presented in the table, referenced in paragraph [34] support the requested office rental rate of \$18.00 psf.

**Respondent's Position:**

[36] The Respondent on page 51 of Exhibit R1 presents a table titled the City of Calgary 2013 Downtown Office Rental Rate Analysis: B- Class DT1 & DT8. The study provided lease particulars on 35 office leases with commencement dates in the period July 2011 to July 2012.

[37] The following table presents the rental rate analysis:

	2011 – 2012 Comm. Date	2012 Comm. Date
<b>Number of Leases</b>	35	13
<b>Range</b>	\$8.00-\$28.00 psf	\$13.50-\$28.00 psf
<b>Mean Rental Rate</b>	\$16.67 psf	\$19.31 psf
<b>Median Rental Rate</b>	\$16.00 psf	\$18.00 psf
<b>Weighted Mean</b>	\$15.27 psf	\$19.00 psf

Comm. Date: Commencement Date

[38] In summary the Respondent argued that the mean and weighted mean rental rate for the 13 leases with 2012 commencement dates support the \$19.00 psf.

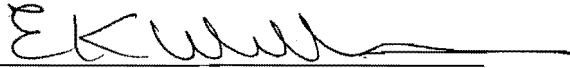
**Board's Reasons for Decision:**

[39] Both the Complainant and Respondent studies report a median rental rate of \$18.00 psf for leases with a 2012 commencement date.

[40] Further an analysis of the Respondent's table of leasing activity in the subject property identified 4 leases with a 2012 commencement date for a total area of 23,118 sq. ft. (24.87% of the assessed area) with a median rental rate of \$18.00 psf and a weighted mean rental rate of \$17.47 psf.

[41] Based the arguments and evidence presented the Board supports the use of an \$18.00 psf rental rate for the office space.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF November 2013.

A handwritten signature in dark ink, appearing to read 'EK Williams', written over a horizontal line.

**Earl K. Williams**  
**Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
	Subject Property Disclosure
2. C2	Complainant Rebuttal
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**

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	OFFICE	HIGH RISE	INCOME APPROACH	CAPITALIZATION RATE/RENTAL RATE/VACANCY RATE