

## **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:**

***Oxford Properties Group Inc./Omers Realty Corporation/  
BCIMC Realty Corporation (as represented by MNP LLP), COMPLAINANT***

**and**

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

**before:**

***B. Horrocks, PRESIDING OFFICER  
J. Massey, BOARD MEMBER  
R. Kodak, BOARD 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:

<b>ROLL NUMBER:</b>	<b>058213000</b>
<b>LOCATION ADDRESS:</b>	<b>440 2 AV SW</b>
<b>FILE NUMBER:</b>	<b>70770</b>
<b>ASSESSMENT:</b>	<b>\$249,230,000</b>

Appeared on behalf of the Complainant:

- Appeared on behalf of the Respondent:

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

- Property Description:**

[6] The 2013 assessment was prepared using the Income Approach to Value, with a typical office space rental rate of \$32.00 per square foot (psf), office space poor location rental rate of \$20.00 psf, storage space rental rate of \$12.00 psf and parking income of \$6,300 per stall. Vacancy and non-recoverable expense allowances were deducted. The resulting net operating income was capitalized at the rate of 6.00% to arrive at an estimate of market value for assessment purposes.

[7] An "assessment amount" was identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely: "the office rent should be \$30 psf".

**Complainant's Requested Value:** \$228,179,000 (Complaint Form)  
\$235,790,000 (Hearing)

**Board's Decision:**

[8] The 2013 assessment is confirmed at \$249,230,000.

**Legislative Authority, Requirements and Considerations:**

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000, Section 460.1:

- (2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection(1)(a).

MGA requires that:

- 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,
  - (a) apply the valuation and other standards set out in the regulations, and
  - (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

- 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.
- 4(1) The valuation standard for a parcel of land is
  - (a) market value, or
  - (b) if the parcel is used for farming operations, agricultural use value.

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

Issue: What is the market net rental rate, to be utilized in the Income Approach to value to determine the market value, for assessment purposes?

**Complainant's Position:**

[9] The Complainant's Disclosure is labelled C-1.

[10] The Complainant, at page 17, provided a table titled, MNP's "AA" Office Lease Analysis. The table contains information from 15 leases with start dates from August 1, 2011 to July 1, 2012. The lease rates range from \$25.00 to \$36.00 psf. Included are 7 leases in the subject building with lease rates ranging from \$25.00 to \$34.00 psf. The weighted average of all of the leases is \$29.15 psf. The weighted average for 2012 only leases is \$29.92 psf and the weighted average of all leases greater than 10,000 sf is \$29.96 psf. The Complainant noted, that all of the averages are below the requested rate of \$30.00 psf.

[11] The Complainant advised that it was provided with the leasing activity for AA buildings from the City. The Complainant reviewed all of the leases and dismissed 3 of them resulting from sublet space, expansion space and office leasing with retail space. In addition, the Complainant adjusted 1 lease rate, to reflect the value of inducements provided.

**Respondent's Position:**

[12] The Respondent's Disclosure is labelled R-1.

[13] The Respondent submitted that the Complainant's analysis is not complete. It has deleted 3 leases from the list provided by the City, and has used an incorrect rental rate for one other lease.

[14] The Respondent, at page 19, provided a table titled, 2013 Downtown Office Rental Rate Analysis: AA Class. The table contains information on 19 leases with lease start dates from August 1, 2011 to July 1, 2012. The lease rates range from \$25.00 to \$44.00 psf. The weighted mean lease rate for all of the leases was \$30.52, while the weighted mean lease rate for the 2012 leases only, was \$31.99 psf. The Respondent noted the assessed lease rate for the subject property is \$32.00 psf.

[15] The Respondent, at page 20, provided two tables that represent both parties' evidence, noting that the following are not included in the Complainant's analysis:

Lease #7	Bankers Hall West	12,302 sf @ \$43.00 psf
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Lease #12	Suncor East	19,329 sf @ \$43.00 psf
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Lease #17	Bankers Hall East	3,621 sf @ \$44.00 psf.
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In addition, the lease rate for Lease #9 (Ernst and Young Tower) has been reduced from \$34.00 to \$29.75 psf.

[16] The Respondent, at page 21, provided an excerpt from the Assessment Request for Information (ARFI) for Lease #7 (Bankers Hall West), noting the owner had signified that the lease was not a sublease. The information provided is for the headlease that was renewed January 1, 2012.

[17] The Respondent, at page 22, provided an excerpt from the ARFI for Lease #9 noting the base rent is \$34.00 psf.

[18] The Respondent, at page 22, provided an excerpt from the ARFI for Lease #12 (Suncor East), noting it is an original lease commencing April 1, 2012 at the rate of \$43.00 psf, with a step increase on April 1, 2014.

[19] The Respondent, at page 22, provided an excerpt from the ARFI for Lease #17 (Bankers Hall East), noting it is a new lease for office space, commencing June 1, 2012 for 10 years, at the rate of \$44.00 psf.

[20] The Respondent, at page 27, provided a graph titled, Rental Rate vs. Time: AA, to demonstrate that the market is increasing. The Respondent submitted that there are sufficient leases in 2012 to establish the typical rate for assessment purposes. The Respondent noted the weighted mean lease rate for all of the 2012 leases is \$31.99 psf which supports the assessed rate of \$32.00 psf.

[21] The Respondent, at page 122, provided a table titled, 2013 Downtown Office AA Class Equity, noting that all AA class buildings are assessed at the rate of \$32.00 psf while all AA New class buildings are assessed at the rate of \$33.00 psf.

**Complainant's Rebuttal Position:**

[22] The Complainant's Rebuttal Disclosure is labelled C-2.

[23] The Complainant submitted that, there were 3 leases that were not included in its analysis and 1 lease that has been revised. The Complainant acknowledged that the Respondent has addressed the 3 leases that were dismissed.

[24] The Complainant, at page 22, provided a Caveat to support its allegation that Lease #7 is a sublease.

[25] The Complainant, at page 46, provided a Caveat to support its allegation that Lease #17 was negotiated to start August 1, 2012 which makes it post facto.

[26] The Complainant, at page 65, provided a Caveat to support its allegation that Lease #12 is a sublease.

[27] The Complainant, at page 71, provided the tenant rent roll for Lease #9 (Suncor East), noting there was 4 months of free rent provided as an inducement, and as a result, the market net rent is reduced to \$31.73 psf, from the base rent of \$34.00 psf.

[28] The Complainant, at page 77, provided a revised Lease Analysis which does not include the purported subleases and revises the rate for Lease #9 (Suncor East). The weighted average for all leases is \$29.30 psf and the weighted average for only the 2012 leases is \$30.16 psf, both of which support the requested rate of \$30.00 psf.

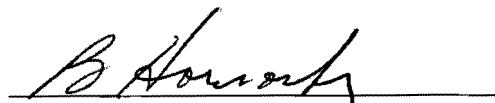
[29] The Complainant submitted the subject is in an inferior location in relation to the comparables, and if the excluded leases were considered outliers, the market net rent would approach the \$30.00 psf rate requested.

**Board's Reasons for Decision:**

[30] The Board finds the Respondent's evidence more compelling. The Respondent has accepted and utilized the information that has been provided by the building owners. In addition, the Respondent has proven that the Complainant's claims are without merit. The Respondent has demonstrated that the market is increasing and has provided sufficient leases to support using only the 2012 activity, to determine the typical market net rent.

[31] The market net rent to be utilized in the Income Approach to value is \$32.00 psf.

DATED AT THE CITY OF CALGARY THIS 3<sup>rd</sup> DAY OF October 2013.



**B. Horrocks**

**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
3. C2	Complainant Rebuttal

*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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<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
Office	High Rise	Income Approach	Rent rate