



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 *MGA*).

between:

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

and

The City Of Calgary, RESPONDENT

before:

Ms. V. Higham, PRESIDING OFFICER
Mr. B. Jerchel, BOARD MEMBER
Mr. J. Pratt, BOARD MEMBER

This is a complaint to the Calgary Assessment Review Board (the Board) in respect of a property assessment prepared by the Assessor of The City of Calgary (the City) and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER:	067056390
LOCATION ADDRESS:	801 6th Avenue SW Calgary, Alberta
FILE NUMBER:	71182
ASSESSMENT:	\$177,240,000

This complaint was heard on 12th day of August, 2013 at the office of the Calgary Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainants:

- **Mr. Adam Farley** **Agent, Colliers International Realty Advisors, Inc.**

Appeared on behalf of the Respondent:

- **Mr. Harry Neumann** **Assessor, City of Calgary**

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

- [1] Neither party objected to the composition of the Board as introduced at the hearing.
- [2] All disclosure materials were received in a timely fashion, as legislated under the Act.
- [3] The Board noted that the Agent Authorization Form on file – signed and authorized by J. Gordon Parker, a Senior Vice-President of the subject owner, Second Real Properties Limited – was missing a signature date to duly validate Mr. Farley's agent authorization. The Authorization Form did, however, note the Tax Year 2013 in the upper right-hand corner of the page, which the Board finds to be sufficient in this instance, noting no objection from Mr. Neumann on behalf of the Respondent. Mr. Farley was, nevertheless, cautioned to guard against future oversights of this kind.
- [4] No further preliminary matters were raised by either party.

Property Description:

- [5] The subject is an A quality office high rise building located at 801 6th Avenue SW in the downtown commercial core of Calgary (DT2), also known as AMEC Place. The building comprises a total of 424,600 square feet (sf) of assessable space and is currently assessed at \$177,240,000, using an income approach to value, with a market rental rate of \$24 per-square-foot (psf), and an applied capitalization rate (cap rate) of 6%.

Issues:

- [6] The Complainant identified one matter on the Complaint Form as under complaint, that being the assessment amount. During the hearing the Complainant indicated he was requesting a different assessment amount (\$158,570,000) than originally noted on the Complaint Form (\$115,206,000). The Complainant then raised the following issues for the Board's consideration:
 - 1) Did the City err in failing to separate A quality downtown office buildings into DT1 and DT2 economic zones for the purposes of assessing these properties?
 - 2) What is the correct rental rate to apply to the subject property: the assessed \$24 or the requested \$21 psf?

Complainants' Requested Value: \$158,570,000

Board's Decision: For the reasons outlined herein, the Board confirms the current assessment of the subject property at **\$177,240,000.**

Legislative Authority, Requirements and Considerations:

[7] A Composite Assessment Review Board (CARB) derives its authority from the *MGA*, Revised Statutes of Alberta 2000, Section 460.1, which reads as follows:

- (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).

Section 293 of the *MGA* requires that :

- (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.

Section 2 of the *Matters Relating to Assessment and Taxation Regulations* (the *MRAT*) states:

- (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.

Position of the Parties

Complainant's Position:

[8] The Complainant began by distinguishing the geographic area of the two downtown zones known as DT1 and DT2 as follows: east and west of 5th Street respectively between 9th and 4th Avenue. The Complainant argued that the City erred in failing to apply different rental rates to these two zones for A quality properties (as the City did for the B quality properties), which resulted in an incorrect and unfair assessment for the subject property.

[9] The Complainant noted an increase in the subject's current assessment over last year of \$55,440,000 or 46%.

[10] The Complainant provided a table of lease data (Exhibit C1, p.19), showing four of the most recent leases within the subject property, noting mean/median rates of \$20.83 and \$20.50 psf respectively for all four leases, and mean/median rates of \$20.77 and \$20.00 psf for the three 2012 leases.

[11] The Complainant also submitted a market lease analysis of 14 leases for A- quality properties in DT2 (Exhibit C1, p.34), showing mean/median rates of \$22.09 and \$21.00 psf respectively.

[12] Upon questioning from the Respondent as to the sufficiency of deriving a typical Rental Rate from a sample of only 14 leases, the Complainant noted that since those 14 leases comprise *all* of the leasing undertaken in the A- quality properties in DT2, it is a sufficient sample size.

[13] In rebuttal, the Complainant referred to a number of City rental rate analyses for various B quality properties in DT1 and DT2 (Exhibit C2, pp. 6-18), showing a consistent difference of approximately \$3 psf between DT1 and DT2 across all measurement parameters: mean, median, and weighted mean. The Complainant also noted that in at least two of these studies, the City derived typical rental rates for categories of properties based on 13, 11, and in one analysis, only 10 leases.

Respondent's Position:

[14] The Respondent began by noting that this is an *assessment* review board, and not a rental rate review board, and that it is flawed assessment methodology merely to change one valuation input in isolation of the other inputs that factor into deriving a total assessment (including vacancy, operating costs, and cap rate for example).

[15] The Respondent argued that all these factors are interrelated when deriving typical rate factors for each class of properties, and that these typicals must then be equitably applied to individual properties within each classification to derive final assessments. The Respondent included in its submissions several CARB decisions in support of this argument.

[16] The Respondent submitted a revised 2013 Downtown Office Cap Rate study (Exhibit R1, p.53), which used the Complainant's requested \$21 psf Rental Rate for each of the A quality properties sold in 2012, showing the revised Net Operating Incomes (NOIs) for each property, and showing the revised cap rates produced by changing just one valuation input in the calculation. These revised cap rates were all lower, resulting in significantly lower assessment values for each property, which when compared with the actual market sales for each property, revealed assessment-to-sales ratios (ASRs) of 0.78 (median) and 0.77 (mean).

[17] When asked why the A quality properties were not separated into two zones (DT1 and DT2) in the City's rental rate analyses, as were B quality properties, the Respondent commented that giving regard to the overall analyses, the City did not feel a separation was warranted in this category for the current assessment year.

[18] In summary, the Respondent concluded that if the Complainant wishes to lower the rental rate to \$21 psf for the subject property, then they must also be willing to analyse the effect such a change would have on the derivation of the typical cap rate applied to the subject, since they have failed to distinguish the subject as atypical in its class in any manner.

Board's Findings and Reasons for Decision:

[19] Having carefully considered the evidence and arguments raised at the hearing, the Board finds that the evidence from both parties confirms the Complainant's assertion of an approximate \$3 psf difference in the market rental rates of A quality properties between the DT1 and DT2 economic zones, which seems to justify separating that classification into two zones.

[20] The Board further finds the Respondent's rationale lacking as to why the zones were not separated out for A quality properties, when they *were separated* for the B quality properties. Thus, there appears to be reasonable market data to warrant the separation of the A quality properties into DT1 and DT2 for the purpose of deriving typical rental rates for those respective categories.

[21] Having said that, however, the Board concurs with the Respondent that it is flawed assessment methodology merely to change one valuation input (in this case, the rental rate) in isolation of the other inputs that factor into deriving a total assessment, unless the subject can distinguish itself as unique, atypical, or in some way not similar to the other properties in the A quality category.

[22] With respect to this issue, the Board gave regard to the following conclusions reached in CARB Decision 1331/2011-P, wherein a similar rental rate argument was advanced:

The weakness in the Complainant's argument is in the replacement of the \$23.00 rental rate with the \$21.00 rental rate without consideration of the impacts of the other inputs. If the Board was convinced that the subject property was unique and therefore not similar to other Class A offices, then it might accept that the office rental rate is the only input rate that should be changed. That, however, is not the case.

The Complainant's evidence relates to all Class A buildings in the market zone. The capitalization rate for that property class, if derived using a \$21.00 per square foot office rental rate, might have been different than 7.5%. The Board has no way of knowing whether or not there should be a capitalization rate adjustment because it has no evidence of capitalization rates.

In summary, the Board is unable to accept the Complainant's office rental rate of \$21.00 per square foot without having evidence of the impact on capitalization rates of that rate in a capitalization rate study. ...

The Complainant cannot simply adopt some input factors used by the Respondent without demonstrating that those inputs would be the ones the market would apply to properties where the office rental rate was different than that used in the Respondent's analysis (emphasis added).

[23] The Board finds this decision squarely on point relative to the Complainant's request to vary **only the rental rate** applied to the subject, but not to address any of the other inputs used to derive the subject's final assessment, including the cap rate. The Complainant's evidence in the subject complaint relates to all A quality buildings in both economic zones, DT1 and DT2.


[24] Since the Complainant made no attempt to distinguish itself as atypical in its DT2 class, the Board finds that changing the typical rental rate from \$24 to \$21 psf would trigger the need to examine a new cap rate analysis, using the lower \$21 psf rate for that entire category, likely producing different NOIs and a different typical cap rate for that classification.

[25] In the absence of such a cap rate analysis from the Complainant, the Board is not persuaded that a change to the rental rate is justified, given the arguments and evidence proffered at the subject hearing.

Board's Decision:

[26] For the reasons outlined herein, the Board confirms the current assessment of the subject property at **\$177,240,000**.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF October 2013.



V. Higham, Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainants' Disclosure
2. R1	Respondent's Disclosure
3. C2	Complainant's 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.*

For Administrative Use Only

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	High Rise	Income Approach	Net Market Rent/Lease Rates