

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:

Westfield Heritage Square Ltd. (as represented by Fairtax Realty Advocates),
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. Thompson, Board Chair
A. Blake, MEMBER
B. Kodak, 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: 123189292

LOCATION ADDRESS: 8500 Macleod Tr. SE

FILE NUMBER: 72006

ASSESSMENT: \$94,110,000

This complaint was heard on 8th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9

Appeared on behalf of the Complainant:

- *S. Storey* *Agent, Fairtax Realty Advocates*

Appeared on behalf of the Respondent:

- *D. Grandbios* *Assessor, City of Calgary*
- *E. Borisenko* *Assessor, City of Calgary*

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

[1] No procedural or jurisdictional matters were raised. The Board proceeded to hear the merits of the complaint.

Property Description:

The subject property, known as Heritage Square, is a suburban office building comprising 306,958 square feet (sq. ft) of office space, 4387 sq. ft. of recreational space, 3772 sq. ft. storage and 568 parking stalls. It was constructed in 1979 with a land area of 4.54 acres. Assessment has this property classed as an A- office in the community of Acadia. The City has used the Income Approach to value with a Capitalization Rate of 6%. This property is assessed at \$94,110,000.

Issues:

[2] **Issue 1 – Capitalization Rate** – The Complainant submits that 6.5% is a more appropriate Capitalization Rate for the subject property, than the currently applied 6%.

Complainant's Requested Value: \$86,870,000

Board's Decision:

[3] Assessment is confirmed at \$94,110,000

Legislative Authority, Requirements and Considerations:

[4] MGA Sec 460.1(2) Subject to 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).

Position of the Parties**Complainant's Position:**

[5] **Issue 1** – Capitalization Rate - the Capitalization Rate of 6% used by the City of Calgary to value this building is not supported by the sales of Class A buildings or by third party reporting agencies. A 6.5% Capitalization Rate is more appropriate for the subject property.

[6] The Complainant argued that two tenants in this building make up over 30,000 sq. ft of the leased space. This indicates that there is a great deal at risk if one doesn't renew.

[7] The Complainant presented evidence of 14 sales in 2011 and 2012 indicating an average Capitalization Rate of 6.83% in B class buildings in the downtown area. He had specific knowledge of four of the properties, as they were purchased by his clients.

[8] Further the Complainant provided 3rd party reports on 2012 Capitalization Rates from CBRE indicating rates between 6.00%-6.50%, and from Colliers between 6.00% – 6.50%.

[9] Complainant also compared the subject to the Stampede Station building, an AA building in the downtown area with a Capitalization Rate of 6.00%, and felt the subject should not be treated the same as this building.

[10] A Leased Fee versus Fee Simple Capitalization Rate Analysis was included from Wernick Omura Real Estate Advisory Services. The report was based on the premise that an office building sells on the leased fee value; to get to the fee simple sale price an adjustment is required to reflect higher than market contract rents. Market derived Capitalization Rates between 6.70% and 7.00% were based on the leased fee sales. Omura analysed eight sales in the 2011 and 2012 timeframe and concluded that the assessor would need to add a 1.78 % adjustment to their Capitalization Rate to recognise the difference between the Leased Fee and Fee Simple value in an office building in the downtown area. The formula and conclusions were developed by Omura.

Respondent's Position:

[11] **Issue 1** – Capitalization Rate - the Capitalization Rate of 6.00% was used to value this building by the City of Calgary. The summary of the City's Capitalization Rate study and conclusions were presented with the mean and median Capitalization Rates showing 6.00% for 2012. There were 12 sales in the analysis all of which were suburban offices.

[12] The marketing information of the subject property issued by Avison Young and Colliers was included.

[13] The Respondent also provided the City's Assessment Request for Information (ARFI) for the subject property along with the 2012 rent rolls obtained.

[14] Rebuttal of the Fairtax Realty 2013 Capitalization Rate Study included information on sales #10 and #12 showing they are class C offices and therefore should be removed. Sales #5 and #13 are on Stephen Avenue Mall and therefore are not comparable to the subject property; they compete in different markets. Sale #14 is a Beltline property so not in the same market and should be removed. Five additional sales of 8 West, Gulf Canada Square and Scotia Centre were not included in the Capitalization Rate study presented by Fairtax but were used in the City's study.

[15] With regard to the study by Wernick Omura, the Respondent commented that four of the

eight sales used in the study had incorrect NOI's (using the wrong year of data based on the sale year) or incorrect classes resulted in incorrect calculations of the Capitalization Rates. Supporting documentation was provided.

Board's Reasons for Decision:

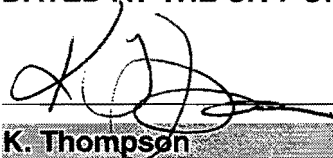
[16] **Issue 1 - Capitalization Rate** – Capitalization Rate analyses were given by both parties and reviewed at length by the Board. The Complainant gave evidence for B class office buildings in the Downtown and Beltline areas with only 3rd party reports to support the suburban office Capitalization Rates. The Board finds that the Capitalization Rate studies by 3rd parties are unsupported.

[17] Information given by the Complainant on Calgary property Capitalization Rate Analysis did not address the specific nature of the subject and the Board gave little weight to it.

[18] Arguments from the Complainant, found in the Wernick Omura report that the sale price needs to be adjusted to reflect fee simple estate were neither sufficiently supported nor specific enough to the subject property to cause the Board to change this assessment.

[19] The Board did not find enough compelling evidence to alter the Capitalization Rate.

DATED AT THE CITY OF CALGARY THIS 13th DAY OF August 2013.



K. Thompson

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1a & R1b	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.*