

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:

Artis Sierra Place 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: 067055202

LOCATION ADDRESS: 706 7 Av SW

FILE NUMBER: 72042

ASSESSMENT: \$18,360,000

This complaint was heard on 9th 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:

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

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

[1] Request from the Respondent that we refer to the presentation from file #72004 and questions and argument from file #72030, #72037 and #72042 to the current file before us. The Board agreed and there was no objection from the Respondent.

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

Property Description:

The subject property, known as Sierra Place, is a Downtown, 11 storey multi-tenant office building comprising 83,828 square feet (sq. ft.) of office space, 6,099 sq. ft. of ground floor retail, and six parking stalls. It was constructed in 1979 and has been renovated over the years. The land area is 8,985 sq. ft. Assessment has this property classed as a C office in the DT2 area and used the Income Approach to value with a typical vacancy rate of 6.75% and a capitalization rate of 5.5%. This property is assessed at \$18,360,000.

Issues:

[3] **Issue 1 - Vacancy Rate** - Complainant submits the Vacancy Rate for this property is not addressed by the City's typical Vacancy Rate.

[4] **Issue 2 - Deferred Maintenance** - The Complainant submits that this property suffers from deferred maintenance.

[5] **Issue 3 - Capitalization Rate** - The Complainant submits that 6.78% is a more appropriate Capitalization Rate for the subject property.

Complainant's Requested Value: \$10,575,000

Board's Decision:

[6] Assessment is confirmed at \$18,360,000

Legislative Authority, Requirements and Considerations:

[7] 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:**

[8] **Issue 1 – Vacancy Rate** – historical vacancy for this building was presented as 6.73% for 2010, 13% for 2011 and 32.72% for 2012 with an average vacancy of 17.48%. A rent roll for the building was included in the evidence for all three years along with a summary of the current market leases. The City's typical vacancy only reflects 6.75%.

[9] **Issue 2 – Deferred Maintenance** – Mass appraisal doesn't capture deferred maintenance.

[10] Complainant provided a Mechanical Systems Condition Evaluation draft Engineering report prepared in October 2010 by Halsall Associates Ltd.

[11] Complainant provided a Baseline Property Condition Assessment for the subject property from Pinchin Environmental Ltd. as of October, 2012.

[12] Complainant provided an Appraisal of Real Property from Cushman & Wakefield Valuation & Advisory as of September 30, 2011. Value conclusion by the appraiser was \$21,600,000.

[13] **Issue 3 – Capitalization Rate** - the Capitalization Rate of 5.5% used by the City of Calgary to value this building is not supported by the sales of Class B buildings or by third party reporting agencies. A 6.78% Capitalization Rate is more appropriate for the subject property.

[14] The Complainant presented evidence of 14 sales in 2011 and 2012 indicating an average Capitalization Rate of 6.83% in B class buildings and 6.70% overall (mix of A-, B, and C class buildings) in the downtown area with specific knowledge of four of the properties, as they were purchased by his clients.

[15] Further, he presented 3rd party reports on 2012 Capitalization Rate studies from CBRE indicating rates between 6.75%-7.25%, and Colliers 6.25%-7.0% for B class buildings, subject property being a C class.

[16] 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 6.7% and 7.00% were based on the leased fee sales. T. Omura analysed 8 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:

[17] **Issue 1 – Vacancy** - typical vacancy for this class of office building is 6.75% – the Respondent provided information on renovation permits for this building for 2011 and 2012 and concluded that much of the reported vacancy was due to renovations and marketing plans (one vacant space was the show suite for the building).

[18] Downtown Office Vacancy Analysis was included. The Respondent noted that the subject property's vacancy was included in the Vacancy analysis to determine typical vacancy for this group of properties.

[19] **Issue 2 – Deferred Maintenance** – Excerpts were pulled out of the two engineering reports to indicate

- 1) From Halsall report executive summary: "at the time of our visit there were no immediate concerns of mechanical equipment failures. The systems are functional and generally well maintained.while the equipment may operate for several more years ...we have provided estimated costs for eventual replacement." And
- 2) From the Pinchin report executive summary: "appears to be in satisfactory condition commensurate with its age and in comparable standing with other similar commercial properties in the area....No immediate costs were identified. Repair and maintenance requirements over the term of the analysis period (i.e., 10 years) of approximately \$583,000..."
- 3) Subject building had already undergone \$157,000 in repairs and upgrades to the lobby and elevator cars.
- 4) Two recent CARB decisions on deferred maintenance and vacancy issues relating to the subject property were included.

[20] **Issue 3 - Capitalization Rate** - the Capitalization Rate of 5.5% was used to value this building by the City of Calgary. The summary of the City's Capitalization Rate study and conclusions was presented with the mean and median Capitalization Rates showing 5.5% for 2012. Supporting documentation was included.

[21] Rebuttal of the Fairtax Realty 2013 Capitalization Rate Study included information on sales #10 and #12 showing they are in 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 (Scotia Centre sold three times) were not included in the Capitalization Rate study presented by Fairtax but were used in the City's study.

[22] 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 that resulted in incorrect calculations of the Capitalization Rates. Supporting documentation was provided by the City.

[23] 35 equity comparables were provided for A- class buildings in DT1/DT2 along with some assessment to sales ratios.

[24] Respondent pointed out that the Cushman & Wakefield appraisal as of September 2011 was estimated to be \$21,600,000.

[25] Some post facto marketing information and a property listing were included.

Board's Reasons for Decision:


[26] **Issue 1 – Vacancy** – The Board does not find the Complainant met the onus to establish that this building has any long term chronic vacancy issues. This is determined by considering the Complainant's own 2012 Appraisal, that used a vacancy allowance lower than the City's typical vacancy, the fact that one of the units calculated into the vacancy number is the show suite, along with permit information the Respondent provided, showing some units are vacant for renovations, and the lack of leasing information on the other units listed as vacant..

[27] **Issue 2 – Deferred Maintenance** – The Board found very inconsistent information was presented by the Complainant. There was little weight put on the 2010 draft Engineering report. The 2012 Pinchin report and the November 2011 Appraisal both indicate the building is in good condition. The Complainant's calculations for the deferred maintenance value relied on the 2010 draft engineering report which was not reasonable given there was a 2012 report available that wasn't marked draft. Vacancy for the subject is considered typical.

[28] **Issue 3 - Capitalization Rate** – Capitalization Rate analyses were provided by both parties and reviewed at length by the Board. The Board does recognise that for assessment purposes it is legislated to produce a market value using mass appraisal and that the best test or indication of Market Value is a typical market sale. The subject property in this case has a 2011 Appraisal that is in excess of the Assessed value and far in excess of the Complainant's requested value. Board needs to reasonably apply the evidence before us and there is nothing in evidence that would give cause to adjust the Assessed Value.

[29] Arguments from the Complainant 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.

DATED AT THE CITY OF CALGARY THIS 15th 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. 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.*