

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:

Marchese Holdings Limited (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Golden, PRESIDING OFFICER

T. Livermore, BOARD MEMBER

J. Pratt, 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:

ROLL NUMBER: 068110204

LOCATION ADDRESS: 407 8 AV SW

FILE NUMBER: 72063

ASSESSMENT: \$19,240,000

This complaint was heard on the 2nd day of October, 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:

- *S. Meiklejohn*

Appeared on behalf of the Respondent:

- *H. Neumann*

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

[1] There were no preliminary issues.

[2] **Property Description:**

[3] The subject property is a high rise office building located in the downtown core DT1 market area. There is a total of 98,426 square feet (sq. ft.) in the C class building which was constructed in 1966. An assessment was prepared using the Income Approach to valuation.

Issues:

[4] **Issue 1:** Does the method used by the City, to determine the rental rate component of the assessment, result in the correct assessment?

[5] **Issue 2:** Is the cap rate component applied to the subject parcel the correct rate? As a sub issue is the capitalization (cap) rate developed in an equitable manner?

Complainant's Requested Value: \$14,540,000

Board's Decision: The assessment is confirmed at \$19,240,000

Board's Decision on Issue 1: The method used by the City, to determine the rental rate component of the assessment, has resulted in the correct assessment.

Position of the Parties

Complainant's Position:

[6] The Complainant presented the table with 2 leases, each lease was signed within the assessment year.

[7] The requested rental rate is based on these lease which are for 15.00 per sq. ft. and \$12.00 per sq. ft which supports the requested rate of \$12.00 per sq. ft. In defence of the use of such a small sample the Complainant presented the Respondent's analysis of A new buildings, which also uses three leases. The Respondent will present a large table of C lass building leases but only 4 are in the DT1 district.

Respondent's Position:

[8] The Respondent presented a table of 62 leases exhibit R- 1 pg. 20 and stated that these were all valid leases for the assessment year. All the leases were exposed to the market and represent the leasing market. Both the mean and median of all the lease are in excess of \$13.00 per sq ft. Since there are only 5 C class buildings the lease rate analysis used all downtown buildings.

Board's Reasons for Decision on issue 1:

[9] The Complainant produced insufficient evidence to demonstrate that \$12.00 per sq. ft. was the correct rental rate. The Complainant's data supports \$13.00 per sq. ft. as the average of the 2 valid leases provided in support was \$13.50 per sq. ft. In addition the leases provided by the Respondent are a larger sample size and stronger evidence which supports the assessment.

Board's Decision on issue 2: The cap rate component applied to the subject parcel is the correct rate. With regard to the sub issue the cap rate was developed in an equitable manner?

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

[10] As with file number 72646 the Complainant was of the opinion that the cap rate was incorrect for three reasons; firstly the cap rates for a class buildings were higher than B class buildings ignoring the hierarchy of building qualities this supported by 3rd party published cap rates. The rate was inequitable between classes of buildings and the City applied the incorrect net operating income (NOI) in determining the cap rate.

[11] The traditional hierarchy of classes of buildings would suggest that an A building because of its attributes, would always carry a lower risk than B class. For example the Bow Building should not carry a risk greater than the subject. To demonstrate the error two 3rd party reports were submitted to the Board beginning on page 48 of exhibit C-1. Both Colliers International and CBRE suggest that an appropriate cap rate for 2012 would be between 6.25% and 7.25% rather than the Respondent's rate of 5.5%.

[12] An equity argument between classes was made by the Complainant. It was pointed out that A class buildings have a typical cap rate of 6%, however the actual cap rate study

presented on pg. 61 of C-1 showed a cap rate mean for A class buildings sold in 2012 at 5.46% then rounded up to 6% by the Respondent. In the same table B class buildings in the study were rounded down from 5.07% to 5%. The Complainant suggested to be equitable C class buildings should be increased .5% as happened with A class buildings.

[13] Lastly the Complainant argued that the method the Respondent used to calculate the typical NOI was in error. The Respondent was applying the wrong NOI to the sales and the cap rate was as a result improperly calculated.

Respondent's Position

[14] As carried forward from other files the Respondent challenged the various assertions made by the Complainant. The hierarchy between A class and B class this year was not demonstrated in the cap rate study but noted an income calculation includes many factors. Page 28 of R-1 demonstrates that although the cap rate hierarchy is disturbed this year the overall values of the various classes displays the traditional hierarchy.

[15] In this case the Respondent pointed out that none of the 3rd party reports referred to C class buildings. Therefore there was no support for that position as in other files considered by the Board.

[16] Cap rates for the two classes of properties were assigned in an equitable manner as the median cap rate of A class buildings was 5.87% rounded to 6%. Cap rates for B class buildings had a median of 4.82% rounded to 5%. However in this case C class buildings are rounded downward from a mean of 5.61 to 5.5

[17] In terms of the correct NOI to apply, the Respondents method ensured that the NOI applied to a sale was never more than six months from a sale date.

[18] In conclusion the Respondent pointed out that even with the three concerns with the cap rate the Complainant could not clearly show how the its cap rate was developed.

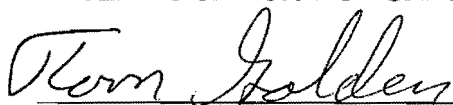
Board's Reasons for Decision on Issue 2

[19] The cap rate argument presented by the Complainant was given little weight as firstly the third party reports provided no evidence regarding C class buildings and therefore were insufficient to require an adjustment to the cap rate.

[20] The second issue being the equity of the application of the cap rate to the classes of buildings was given little weight as C class buildings are rounded as with the other buildings. The evidence of the Respondent is stronger than the Complainant's in support of the assessment.

[21] The third point regarding the application of the proper income data to the various sales, may have merit. The Board was satisfied that the requested cap rate is not supported as it is an amalgamation of corrected data each of which have not been accepted from the Complainant and the discussion of the application of the NOI was not warranted.

DATED AT THE CITY OF CALGARY THIS 28th DAY OF November 2013.



Tom Golden

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.*

| Roll | Address | Subject | Issue | Detail | Sub Detail |
|-------------|----------------|----------------|--------------|-------------------------|-------------------|
| 068110204 | 407 8 AV SW | office | income | Cap rate rental rate | |