



**Calgary Assessment Review Board**

**DECISION WITH REASONS**

In the matter of a preliminary decision related to 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:**

***310666 Alberta Ltd. (as represented by Altus Group), COMPLAINANT***

**and**

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

**before:**

***I. Weleschuk, PRESIDING OFFICER***

***H. Ang, BOARD MEMBER***

***A. Huskinson, 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>067209205</b>
<b>LOCATION ADDRESS:</b>	<b>924 17 Av SW</b>
<b>FILE NUMBER:</b>	<b>72093</b>
<b>ASSESSMENT:</b>	<b>\$2,710,000</b>

The Complaint was heard on the 17<sup>th</sup> day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212-31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *A. Izard*

Appeared on behalf of the Respondent:

- *C. Fox*

**Procedural or Jurisdictional Matters:**

[1] Neither party objected to the Panel constituted to hear this matter and make a decision on the assessment.

[2] Both parties requested that the evidence, questions, answers and argument related to the capitalization rate issue considered in Complaint File No. 72151 be carried forward to this hearing. This includes evidence packages referred to as Exhibits C2, C3 and C6. The Board agreed to carry forward the evidence and argument, and to maintain the reference to Exhibits C2, C3 and C6. The only new evidence presented by the Complainant is Exhibit C1, the evidence specific to this property and complaint. Exhibit R1 is similar to but not exactly the same as presented in File 72151, so is also unique to this complaint.

**Property Description:**

[3] The subject property is a three-storey C quality office/retail building located in the Beltline District (specifically in the BL6 sub-district) constructed in 1967. The building has a total of 9,108 square feet (SF) of assessed space allocated to retail use on the main level, and office use on the second and third level. The 2013 Assessment is calculated using the income approach. The 3,108 SF of "retail" is assigned a market rental rate of \$32/SF with a 9.5% vacancy, \$12/SF operating costs and 1% non-recoverable rate. The 6,000 SF of "office space" is assigned a \$14/SF rental rate, with 8% vacancy, \$12/SF operating costs and 1% non-recoverable rate. The capitalization rate used is 5.75%. The 2013 assessment calculated using these rates is \$2,710,000.

**Issues:**

[4] Both parties addressed a number of topics, but only those topics that are germane to the issues and supported by evidence are discussed in this decision. All these issues relate to whether the 2013 Assessment is correct.

1. What is the correct rental rate for the "retail" space?
2. What is the correct capitalization rate for the subject C office/retail property?
3. Is the subject property equitably assessed?

**Complainant's Requested Value:** \$1,900,000 changed to \$2,090,000 at hearing.

**Board's Decision:**

[5] The Board reduces the 2013 Assessment to \$2,090,000.

**Legislative Authority:**

[6] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act, might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

[7] The Board notes that the words "fair" and "equitable" are not defined in the MGA or its Regulations. Equitable is defined in Black's Law Dictionary (Seventh Edition, West Group, St. Paul, Minnesota, 1999) as "just, conformable to principles of justice and right". For the purpose of this decision, the Board considers an assessment that reflects market value to be "fair and equitable" as the taxpayer is being assessed in accordance with the assessment standard.

**Issue 1: What is the correct rental rate for the "retail" space?****Complainant's Position**

[8] The Complainant took the position that the City's 2013 Beltline 6-8 and FS1 CRU Rental Rate Analysis C (page 32, Exhibit R1) does not support the \$32/SF rental rate assigned to the "retail" space component in the 2013 assessment. This data indicates a median of \$21.29/SF. Rather than present rental rate evidence in Exhibit C1 to support the initially requested rental rate of \$17/SF, the Complainant adopted the \$21/SF rental rate as the appropriate rate for the subject property. The Complainant altered the requested assessment to reflect a rental rate of \$21/SF for the retail component.

[9] The Complainant argued that the subject is a C quality building, therefore should be assigned a rental rate reflecting its C quality. Assigning an A quality rental rate is not supported by the City's evidence. The subject leases are dated therefore do not reflect current, typical market rates.

**Respondent's Position**

[10] The Respondent stated that while the property is considered a C quality, based on the predominant office component, the main floor retail space is located on 17<sup>th</sup> Avenue SW, considered a retail corridor, and therefore the retail space is considered A quality retail space. The \$32/SF rental rate assigned is the rate assigned to A quality retail space in BL6-8 (properties located along 17<sup>th</sup> Av SW).

[11] The Respondent presented the 2013 Beltline 6-8 and FS1 CRU Rental Analysis A-A2 on page 31, Exhibit R1 to support the \$32/SF rental rate. The \$32/SF is based on the median value of the data.

[12] The Respondent presented the Assessment Request for Information (ARFI) for the subject property (page 24-28, Exhibit R1) to show that the property was achieving rents above the \$32/SF rate.

**The Board's Findings on this Issue:**

[13] The Board is not persuaded that the subject retail space should be assigned A quality rental rates while the office component is assigned a C quality rental rates. The Board notes that the assignment of quality ratings appears to be based on the leasing experience in a property, and not on physical characteristics. The Respondent did not present a logical argument to support this practice.

[14] The Board finds that the typical retail for C quality retail space in Beltline 6-8 is \$21/SF. Neither party disputed this rate, derived from the City's 2013 Beltline 6-8 and FS1 CRU Rental Analysis C.

**Issue 2: What is the correct capitalization rate for the subject C retail/office property?****Complainant's Position**

[15] The Complainant argued that the 5.75% capitalization rate used by the City to calculate the 2013 Assessment was not supported by any study.

[16] The Complainant presented its 2013 Beltline Retail Capitalization Rate Summary (page 31, Exhibit C1) consisting of one AA quality retail property, one A2 quality retail property and two B quality retail properties to support a rate of 6.00 for the subject retail/office property. Supporting documents and further analysis is presented in Exhibit C2.

[17] Assessment to Sales Ratio (ASR) analysis were included in the capitalization rate tables presented by the Complainant to demonstrate the validity of their capitalization rate calculations.

**Respondent's Position**

[18] The Respondent argued that the AA and A2 quality properties in the Complainant's retail capitalization rate study are not typical properties and should not be considered by the Board. The Respondent presented documents and argued that the AA property (100, 1410 1 St SE) was purchased by the adjacent owner as a land assembly, and that the casino property (218 18 Av SE) also included two surface parking lots that are required as part of the casino license and are not properly valued in the capitalization rate calculation.

[19] The Respondent presented a number of previous Board Decisions related to the use of the Complainant's retail sales as capitalization rate comparables.

[20] The Respondent presented a summary table (page 225, Exhibit R1) comparing the Assessment to Sales Ratios (ASR's) for the City's capitalization rate study results with the Altus Capitalization Rate Study. The Respondent argued that this comparison demonstrates that the City's capitalization rate results in better ASR's than the Altus rate of 6%, and therefore is the appropriate rate.

[21] In response to questions, the Respondent stated that the 5.75% capitalization rate used in the assessment calculation for the subject retail C office/retail property is determined using the Beltline B quality Office Capitalization Rate Study. Based on this study, as well as other capitalization rates derived for other types of properties in areas adjacent to the Beltline, the City developed a table of capitalization rates for various classes of office and retail properties, and applied these to the Beltline District. The 5.75% rate is applied to both C quality office and retail properties in the Beltline.

**Board Findings on this Issue**

[22] The Board acknowledges that there are a very limited number of comparable sales available to indicate a capitalization rate.

[23] The Complainant and the Respondent presented capitalization rates and studies associated with various qualities and types of buildings, based on sales of those properties. The Board notes that neither party presented any sales of C quality office or retail properties.

[24] The Board understands that the City's 5.75% capitalization rate is "benched" off the B Office Capitalization Rate Study and some other capitalization rate studies around the subject area. This appears to be a somewhat arbitrary approach to deriving a capitalization rate.

[25] The Board prefers the Complainant's capitalization rate evidence and finds that a capitalization rate of 6.00% is more reflective of the subject C quality office/retail property.

**Issue 3: Is the subject property equitably assessed?**

[26] Neither party presented any equity comparables. The equity argument presented by the Respondent is not sufficient to demonstrate that using a capitalization rate of 5.75% achieves equity. The Board finds that there is insufficient evidence to consider whether the subject is equitably assessed.

**Board's Decision:**

[27] The Board concludes that the appropriate rental rate for the "retail" component is \$21/SF and that a capitalization rate of 6% reflects a typical rate for the subject property. Applying these factors into the income approach calculation results in the 2013 Assessment of \$2,090,000.

The Board reduces the 2013 Assessment to \$2,090,000.

DATED AT THE CITY OF CALGARY THIS 19<sup>th</sup> DAY OF November 2013.



**Ivan Weleschuk**  
**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. C2	Complainant Disclosure – 2013 Beltline Retail Cap Analysis
3. C3	Complainant Disclosure – Evidence Appendix
6. C6	Complainant Disclosure – Rebuttal Submission
7. 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.*

**For MGB Administrative Use Only**

<b>Subject</b>	<b>Type</b>	<b>Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Office/retail	Stand-alone	Retail rental rate Capitalization rate	Equity