



**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:**

***First Capital Holdings (ALB) Corporation (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>200775286</b>
<b>LOCATION ADDRESS:</b>	<b>815 – 17 AV SW</b>
<b>FILE NUMBER:</b>	<b>72139</b>
<b>ASSESSMENT:</b>	<b>\$36,040,000</b>

The Complaint was heard on the 15<sup>th</sup> day of October, 2013 and on the 18<sup>th</sup> day of October 2013 to accommodate schedules of parties attending the hearing. The hearing was held 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:

- S. Trylinski (*legal counsel*) – attended only on October 15, 2013
- D. Satoor – attended only on October 15, 2013
- 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.

**Preliminary Matters**

[2] The parties agreed that the Complainant would not pursue the issue of exempt space, as was included in the Complainant's Disclosure (Exhibit C1) and specifically referred to in the summary of testimonial evidence (point 2, page 6, Exhibit C1). The Respondent requested that the hearing be opened and that the Complainant make this statement on the record, which would then not require the attendance of S. Trylinski or D. Satoor for the remainder of the hearing. The file was opened and the Complainant stated that the issue of exempt space would not be pursued as an issue in this hearing. The file was then adjourned to October 18, 2013, when the merit of the remainder of the complaint was heard.

[3] Both parties requested that the evidence, questions, answers and argument related to the issue of capitalization rates presented in File No. 72151 be carried forward into this hearing. The Board agreed. To provide consistency between File No. 72151 and this file, Exhibits C2, C3 and C6, entered as evidence in the hearing on File No. 72151 will continue to be referred to with these Exhibit numbers.

**Property Description:**

[4] The subject property is a two-storey retail/office AA quality building with underground parking located in the Beltline District, and specifically in the BL6 sub-district, known as the Mount Royal Block. The building was completed in 2012 (though the City of Calgary Property Assessment Detail Report indicates Year of Construction as 2006), with the main and second floor providing a total of 50,228 square feet (SF) of assessed space. The property consists of the following components:

- 3,946 SF of “bank” space assessed at a rental rate of \$43/SF, 9.5% vacancy, \$12/SF operating costs and non-recovery allowance of 1%;
- 25,456 SF of “office” space assessed at a rental rate of \$23/SF, 8.0% vacancy, \$14/SF operating costs and non-recoverable allowance of 1%;
- 18,731 SF of “retail” space assessed at a rental rate of \$50/SF, 9.5% vacancy, \$12/SF operating costs and non-recoverable allowance of 1%;
- 2,095 SF of “storage” space assessed at a rental rate of \$5/SF, 9.5% vacancy, \$12/SF operating costs and non-recoverable allowance of 1%; and
- 124 underground parking stalls assessed at \$4,200 per stall (\$350/stall/month).

The capitalization rate used to calculate the income approach value is 5.50%, resulting in a 2013 assessment of \$36,040,000.

**Issues:**

[5] 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 rental rate for the underground parking stalls?
3. What is the correct capitalization rate for the subject AA retail/office property?
4. Is the 2013 assessment equitable?

**Complainant's Requested Value:** \$23,740,000

**Board's Decision:**

[6] The Board reduces the 2013 Assessment to \$25,910,000.

**Legislative Authority:**

[7] 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.

[8] 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 to apply to the "retail" space?****Complainant's Position**

[9] The Complainant's position is that the \$50/SF rental rate assigned to the retail space is incorrect, as it is not supported by the leasing data for the area. The Complainant stated that the correct rental rate for the subject retail space is \$31/SF.

[10] The Complainant presented the 2013 Beltline Office Rental Rate Summary – AA Class (page 53, Exhibit C1) consisting of seven 2012 leases from two buildings with a median of \$24/SF. The Complainant also presented the 2013 Beltline 1-5 CRU Rental Analysis AA (page 54, Exhibit R1) consisting of two leases from two buildings with a median of \$33.63/SF and an assessed rate of \$31/SF. The Complainant argued that the rental evidence and to achieve equity, the subject retail space should be assessed at \$31/SF.

**Respondent's Position**

[11] The Respondent argued that the subject building is located in BL6, along 17<sup>th</sup> Av SW, which is a commercial corridor and is achieving higher rents for retail space than properties in the Beltline not located on 17<sup>th</sup> Av SW.

[12] The Respondent presented the 2013 Beltline 6-8 and FS1 CRU Rental Analysis AA (page 51, Exhibit R1) to support the assessed rate of \$50/SF. This analysis consists of four 2007 leases from the subject building with a median of \$53.50/SF. The Respondent also included two leases from the other AA quality office building in BL6 commencing in October 2012 at \$65/SF and \$60/SF.

[13] The subject rent roll and Assessment Request for Information (ARFI) was presented (page 32-46, Exhibit R1) to demonstrate that the subject property was achieving rents for retail space above the assessed rate of \$50/SF.

### **Findings of the Board on this Issue**

[14] The Board acknowledges that there are a limited number of AA buildings in the Beltline District, therefore a limited dataset to derive retail rents.

[15] The Board notes that the Beltline 6-8 CRU rental analysis is based on four 2007 leases, which is the support for the assessed rate of \$50/SF. The two October 2012 sales were not used in the analysis to derive the 2013 AA retail rental rate.

[16] The Board heard argument that the 17<sup>th</sup> Avenue SW retail corridor achieves higher rents for retail space than other areas in the Beltline District, but no evidence was presented to demonstrate that this is the case, nor the quantum of the premium being achieved.

[17] The Board notes that a number of the lease comparables are from the subject building, and the \$50/SF rate is based on four leases all from the subject property. The issue before the Board is to determine the typical rental rate for retail space in the subject, therefore relying solely on rental information from the subject property is not appropriate.

[18] The Board finds that the appropriate rental rate for the subject retail space is \$31/SF, the rate used to calculate assessments for AA quality retail property in Beltline 1-5.

### **Issue 2. What is the correct rental rate to apply to the underground parking stalls?**

#### **Complainant's Position**

[19] The Complainant disputed the \$350/stall/month (\$4,200/year) rental rate used to calculate the 2013 assessment. The Complainant argued that the 2013 Beltline Parking AA Class evidence presented by the Respondent (page 689, Exhibit R1) consists of seven stall rentals, four from the same building and the highest rental rate at \$500/month could not be verified.

[20] The Complainant presented monthly parking information for a parkade located at 909 17 Av SW (in Hanson Square) on page 81-84, Exhibit C1. Based on this evidence, the complainant argued that the typical parking rate in the area is \$200/stall/month (\$2400/year).

**Respondent's Position**

[21] The Respondent presented the 2013 Beltline Parking AA Class Study (page 689, Exhibit R1) and argued that the \$4,200/year (\$350/stall/month) rate is based on the best evidence available to the City. The Respondent noted that no parking rates were provided on the subject ARFI, and that the City did not have the information presented by the Complainant on page 79-84, Exhibit C1 when the parking rate analysis was done.

**Findings of the Board on this Issue**

[22] The Board acknowledges that the City used the lease information it had available at the time to prepare the parking rates. Nevertheless, the Board must consider all the evidence it has available and considers appropriate to come to a decision on this issue.

[23] Based on the information presented by the Complainant, the Board notes that the range of monthly parking rates is between \$150 to \$500/month/stall, with the majority of the stalls leased at a rate between \$240 to \$315/month/stall. Based on this data, the Board finds that the typical parking rental rate is \$275/stall/month, or \$3,300/year.

**Issue 3: What is the correct capitalization rate for the subject property?****Complainant's Position**

[24] The Complainant argued that the 5.50% capitalization rate used by the City to calculate the 2013 Assessment was not supported by any study. The City's 2013 Beltline Office Capitalization Rate Study (page 67, Exhibit R1) consists of five B Quality Office buildings, resulting in a 5.25% capitalization rate. No AA quality office or retail properties are presented by the Respondent to support the 5.50% rate used to calculate the assessment.

[25] The Complainant presented a summary of the Altus 2013 Beltline 'B' Office Capitalization Rate Summary (page 106, Exhibit C1) consisting of four sales indicating a capitalization rate of 7%. Three of the sales are common to the sales data used in the City's B Office Capitalization Rate Study. The Complainant presented documents and argued that two of the properties used by the City in their study (605 11 Av SW and 809 10 Av SW) are a "portfolio" sale and should not be used. The Complainant presented documents and argued that its sale at 525 11 Av SW is a valid sale, as meets the definition of a market value transaction.

[26] The Complainant presented its 2013 Beltline Retail Capitalization Rate Summary (page 105, 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 an AA quality retail building. The only AA quality retail property in the Beltline (100, 1410 1<sup>st</sup> SE) sold in July 2011 with an indicated capitalization rate of 5.81%. The A2 retail property is the Elbow River Casino located at 218 18 Av SE which sold for an indicated capitalization rate of 7.61%. The Complainant presented support documents for all these comparable sales in Exhibit C2, and argued that they were valid sales and should be used to indicate capitalization rates for the subject property.

[27] 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.

[28] Based on this evidence, the Complainant requested a 6% capitalization rate.

[29] In argument, the Complainant presented a number of previous Board decisions supporting the requested capitalization rate.

### **Respondent's Position**

[30] The Respondent presented a summary of the 2013 Beltline Office Capitalization Rate Study (page 67, Exhibit R1) with supporting documents following. This study consists of five B quality office buildings, resulting in a 5.25% capitalization rate, which the Respondent argued supports the 5.50% capitalization rate used to calculate the 2013 Assessments.

[31] The Respondent presented support documents and argued that the two properties located at 605 11 Av SW and 809 10 Av SW were purchased by the same party, a national retail trust, but that the City vetted the sales and understands that the indicated values on the transfer documents represent their respective market values. The sales were brokered transactions between two sophisticated parties with no indication that any premium or discount was applied to the sale price.

[32] The Respondent presented support documents and argued that the Complainant's sale at 525 11 Av SW was purchased for redevelopment, not its income stream, therefore was not a good indicator of capitalization rate (indicative of an income producing property).

[33] 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.

[34] The Respondent presented Assessment to Sales Ratio (ASR) analysis (page 205, R1) to support the validity of its capitalization rate analysis.

[35] In response to questions, the Respondent stated that the 5.50% capitalization rate used in the assessment calculation for the subject retail/office AA property is determined using the Beltline B Quality Office Capitalization Rate Study, and considers the downtown A quality office capitalization rate study, resulting in the 5.50% capitalization rate. The Respondent presented a summary table of 2013 Beltline Capitalization Rates, entered as Exhibit R2, and referred to this table in explaining the rationale for the 5.50% capitalization rate.

**Board Findings on this Issue**

[36] The Board acknowledges that the subject property is somewhat unique, and that there are no good comparable sales available to indicate a capitalization rate. Both parties relied on capitalization rates derived from various building types and qualities. The Respondent relied on the Beltline B Quality Office Capitalization Rate study as the basis for its capitalization rate.

[37] The range of capitalization rates for the five B quality office sales used by the Respondent is 3.63-6.53%. The range of capitalization rates for the four B quality office sales used by the Complainant is 4.61-9.39%. The range of capitalization rates for the three B quality office sales common to both analysis is 4.61-7.39% (Complainant) or 4.80-6.53% (Respondent). This difference in capitalization rates using the same sales demonstrates the sensitivity of the resulting capitalization rate to the input data.

[38] The Complainant presented a Beltline Retail Capitalization Rate analysis with a range of 4.78-7.61%. The Respondent argued that the sales used by Complainant in this study are not properties comparable to the subject for a number of reasons. All four sales in the analysis consist of retail properties with little to no office component, and properties that are not similar to the subject (year of construction, quality, size, etc.). The Board acknowledges that these properties may not be comparable to the subject in all characteristics, but they are the best evidence available to the Board.

[39] Based on the capitalization rates presented, the Board finds that a capitalization rate of 6.00% is more reflective of an AA quality retail/office property.

**Issue 4: Is the 2013 Assessment Equitable?**

[40] The Respondent presented some assessment to support the rates used in preparing the 2013 assessment and to demonstrate that these rates were applied equitably. The Complainant presented assessments from various properties to support the various rates they were requesting. The Board finds that there is only one property that is similar to the subject in this assessment district, therefore there is insufficient evidence to determine equity simply by comparing the subject assessment to assessments of other "comparable" properties.



**Board's Decision:**

[41] The Board concludes that the appropriate rental rate for retail space is \$31/SF, the appropriate rental rate for underground parking stalls is \$3,300 (\$275/stall/month); and the capitalization rate is 6.00%. Applying these factors into the income approach calculation results in the 2013 Assessment of \$25,910,000.

The Board reduces the 2013 Assessment to \$25,910,000.

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
4. C6	Complainant Disclosure – Rebuttal Submission
5. R1	Respondent Disclosure
6. R2	Respondent-Summary Table of 2013 Beltline Capitalization Rates

*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	Retail/office	Stand-alone	Rental rates – office unoccupied, CRU occupied, CRU unoccupied, underground parking stalls. Capitalization rate	Equity, Sales