



**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:**

***ARCI Ltd. and SEC GP Inc. (as represented by Wilson Laycraft, Barristers & Solicitors),  
COMPLAINANT***

**and**

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

**before:**

***H. Kim, PRESIDING OFFICER  
P. Grace, 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>068054998</b>
<b>LOCATION ADDRESS:</b>	<b>117 5 Ave SW</b>
<b>FILE NUMBER:</b>	<b>72237</b>
<b>ASSESSMENT:</b>	<b>\$982,940,000</b>

This complaint was heard on the 20<sup>th</sup> of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *B. Dell, Wilson Laycraft Barristers and Solicitors*
- *C. Hartley, Colliers International*
- *A. Farley, Colliers International*

Appeared on behalf of the Respondent:

- *H. Neumann, Assessor*
- *N. Irving, City of Calgary Law Department*

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

[1] The original assessment notice issued on January 3, 2013 set the assessment at \$955,330,000. An amended notice was issued one day later, on January 4, 2013, with a revised assessment of \$982,940,000. The Complainant's disclosure included materials based on the original amount, which was reflected in the Assessment Explanation Supplement (AES) reports obtained by the Complainant from the City's website.

[2] The Respondent explained that an error was discovered before the notices were mailed but too late to stop them from being mailed, therefore the amended notices were issued the following day. The AES reports were not immediately updated. The Respondent did not have any objection to the Complainant revising the disclosure at the hearing as required to reflect the amended amount as the evidence was presented.

[3] As both parties were in agreement, the hearing proceeded on that basis.

#### **Property Description:**

[4] The subject is a AA class office building consisting of two towers of 32 stories and 52 stories on an atrium base located in the DT1 district of the downtown core. It was constructed in 1983/1984 and is currently known as Suncor Energy Centre. The assessment is based on the income approach to value with 1,717,192 square feet of office space at \$32/sf and 856 parking stalls at \$6,300/annum along with rates for retail, storage, food court and automated teller machine that are not under dispute to arrive at a potential net income. Typical vacancy rates for the various space types and vacant space shortfall, along with non-recoverables, none of which are at issue, are deducted to arrive at a net operating income (NOI). Capitalization rate of 6%, which is also not at issue, is applied to the NOI to arrive at a value of \$988,244,183. Related Value of \$5,300,000 which is the amount attributable to an exempt tenant is deducted and the resulting value truncated to arrive at the assessment under complaint.

#### **Issues:**

[5] The Complaint form identified a number of reasons for complaint; however at the hearing the following issues were argued:

1. The assessed office rental rate is higher than typical market for the characteristics of the subject property and should be reduced to \$28.50.
2. The assessed parking rate is higher than the typical market rate for the area, and should be reduced to \$5,400/annum

**Complainant's Requested Value:** \$874,000,000

**Board's Decision:**

[6] The assessment is reduced to \$955,330,000.

**Issue 1 – Office Rental Rate:**

**Complainant's Position:**

[7] The AA class buildings are separated into two sub categories, as there was a period between 2000 and 2011 in which there was no AA buildings constructed. The "AA new" class includes the recently completed high profile towers, while the subject, along with Canterra and the Ernst & Young tower are in the older generation of AA buildings. They were all initially assessed at an office rental rate of \$31/sf for 2013, which was corrected to \$32/sf. The office rental rate for "AA new" is \$33/sf.

[8] When the subject was constructed in 1983, Petro-Canada had intended to occupy the entire building. By the time it was completed not all of the space was required, and portions were leased to others. In 2009, when Suncor merged with Petro-Canada, its office space was consolidated in the subject building which was renamed Suncor Energy Centre. Suncor took over the existing leased space and negotiated to increase space as it became available. The agreement was signed in 2009 but the lease commencement dates will vary as they take effect upon expiry of pre-existing leases, from 2011 to 2019. The rate is \$28/sf with a \$50/sf tenant improvement allowance that is amortized and adds \$5.22/sf to the rental rate once they are in place. The "as-is" rate is \$28/sf. The Complainant presented four recent leases within the subject:

Leased Area	Commencement Date	Term	Rate
19,329	04/01/2012	17	43.00
1,905	01/01/2012	1	25.00
23,288	11/01/2011	17	28.00
116,261	10/01/2011	17	28.00
	Mean		31.00
	Median		28.00
	Weighted Mean		29.77

[9] The Complainant contends that these are typical market lease rates. Large tenants negotiate leases several years in advance. The construction time for new buildings is a three year horizon, and it would be impossible to arrange for large blocks of space in a few months. For large tenants, negotiations in 2009 for commencement in 2011 are the norm. Rental rates from such time frames are more reflective of fair market conditions, as lease rates for large blocks of space negotiated shortly before commencement will likely reflect a distressed situation whereby the tenant would have no other options and be forced to pay a higher rate. Therefore the \$28/sf lease rate is a market rate. The \$43/sf rate in the subject building was for expansion space for a lease that commenced in 2009. While it is a valid lease, the Complainant suggested that it would not necessary be reflective of the market rent at the valuation date.

[10] The subject is the oldest of the original AA buildings in the downtown core. The 2011 assessment of the subject was reduced on complaint because the CARB agreed that the subject should fall somewhere between AA and A. The decision stated that buildings often drop

in class as they age. The Complainant suggested that the subject's age and location is more comparable to a Class A building.

[11] The leasing activity in the subject is more comparable with multiple tower class A buildings of similar age (Bow Valley Square 3 and 4, First Canadian Centre, Home and Dome towers at TD square). Rental rates in those buildings in the analysis period were \$17 to \$33/sf with a mean of \$27.70/sf, median of \$28.25 and a weighted mean of \$26.15. The Respondent's typical 2013 lease rate for AA New and AA have a very small spread at \$33/sf and \$32/sf respectively, while the A New and A class are \$31/sf and \$26/sf.

[12] The Complainant submitted the appropriate lease rate for the subject would be somewhere between the \$32/sf applied for AA class and the \$26/sf for A class and requested a rate of \$28.50 be applied. This is supported by leasing activity in the subject building.

#### **Respondent's Position:**

[13] The CARB had reduced the 2011 assessment of the subject property because all AA buildings had been grouped together, which was determined to be inappropriate. Due to this decision, the Respondent separated AA into "AA New" and "AA" for the 2012 assessment to recognize the differences. The 2012 assessment on the subject property was confirmed.

[14] The Respondent said that quality classes are assigned after extensive research. In the preliminary stages, the previous year's classification and industry reports are considered and a preliminary building class is assigned. Physical building attributes are reviewed to confirm consistency with the expected typical overall attributes within the assigned class. These attributes include: location within the downtown core, physical condition, functionality (floor plate, configuration, HVAC, technological installations), age, height, quality of construction, amount of retail, +15 connectivity, parking and amenities. The subject rates favourably for all of these characteristics and is properly classed with the other older generation AA buildings. The subject was the tallest building in Calgary until The Bow was constructed. The Calgary page from a website dedicated to skyscrapers was presented, and the subject features prominently. The Respondent noted that all of the tallest buildings depicted on that page are AA class. All of the industry market reports, including Colliers, list the subject as AA. The Respondent presented photographs and the description of the building from the Brookfield website showing the high quality finishes and grand atrium. The characteristics and amenities of the subject building are clearly AA class.

[15] Respondent determined the office rental rates for the older AA buildings based on 19 leases ranging from \$25 to \$44/sf with commencement dates from August 2011 to July 2012:

<b>Building</b>	<b>Leased Area sf</b>	<b>Start Date</b>	<b>Term</b>	<b>Rate</b>
Bankers Hall East	2,284	08/01/2011	1.9	\$36
Canterra	2,758	09/01/2011	5	\$29
Suncor East	116,261	10/01/2011	17	\$28
Suncor West	23,288	11/01/2011	17	\$28
Ernst & Young	15,000	12/01/2011	6	\$27
Ernst & Young	5,144	12/01/2011	6	\$27
Bankers Hall West	12,302	01/01/2012	11	\$43
Suncor West	1,905	01/01/2012	1	\$25
Ernst & Young	27,799	01/20/2012	5	\$34
Canterra	139,027	04/01/2012	15	\$31

Ernst & Young	3,052	04/01/2012	5	\$34
Suncor East	19,329	04/01/2012	17	\$43
Ernst & Young	9,500	05/01/2012	13	\$28
Ernst & Young	5,601	05/01/2012	13	\$29
Ernst & Young	12,357	05/01/2012	2.5	\$25
Ernst & Young	834	05/01/2012	5	\$34
Bankers Hall East	3,621	06/01/2012	10	\$44
Canterra	39,038	06/22/2012	10.5	\$28
Bankers Hall West	6,863	07/01/2012	10.7	\$31
<b>All leases</b>			<b>Mean</b>	<b>\$31.79</b>
			<b>Median</b>	<b>\$29</b>
			<b>Weighted Mean</b>	<b>\$30.52</b>
<b>2011 only</b>			<b>Mean</b>	<b>\$29.17</b>
			<b>Median</b>	<b>\$28</b>
			<b>Weighted Mean</b>	<b>\$28.01</b>
<b>2012 only</b>			<b>Mean</b>	<b>\$33.00</b>
			<b>Median</b>	<b>\$31</b>
			<b>Weighted Mean</b>	<b>\$31.99</b>

[16] The Respondent stated that there was a rising trend in rent rates in the latter part of the analysis period, based on the difference in the mean, median and weighted mean of rents in 2011 compared to 2012. Therefore, the leases in 2012 would be more indicative of the market at the valuation date of July 2012, and the typical lease rate for the older AA class buildings was set at \$32/sf. The Respondent presented CARB decisions from 2010 when there was a declining market. The decisions stated that leases closest to the valuation date should be used to determine the typical rate. At that time, the agents were advocating for this approach, so it is inconsistent that in a rising market the Complainant should be saying the whole year's leasing activity should be considered. The Respondent presented graphs of the lease rates over the past two years to support his contention that the rates were increasing over the time period.

#### **Complainant's Rebuttal:**

[17] The Complainant stated that the lease analysis is flawed, because Bankers Hall should not have been grouped with the other older AA buildings. The west tower, built in 2000, is considerably newer than the typical building in the older AA class. It is in a significantly better location, on the retail spine of 8<sup>th</sup> Avenue. The leases at Bankers Hall are consistently higher than the group, ranging from \$31 to 44/sf and skew the typical rents. If Bankers Hall is not included in the analysis the typical rate for AA buildings is considerably lower.

[18] The Complainant stated that in a stable market, a full year of rental information should be used in determining lease rates. The AA leases without Bankers Hall shows a very small increase over the two year period, and without Bankers Hall and Ernst & Young Tower (another AA building built closer to 2000) it shows a level market over the past two years. The Complainant suggested that the AA class could be better grouped as new, middle aged and old.

#### **Findings and Reasons:**



[19] The subject is properly classed as AA and the Board does not agree that the leasing activity in the subject is necessarily typical of the market due to the amount of space committed in one lease negotiation to a single tenant. The range of rents achieved in Bankers Hall is higher, but overlaps the range achieved in the subject. It is also noted that the leases in Bankers Hall were for smaller spaces and would have a lesser impact on the weighted mean, which appears to be the value most relied on to determine the typical lease rate. Therefore, the Board does not agree that Bankers Hall should be removed from the analysis. While the Board agrees that the subject is the oldest of the group of older AA buildings, the subject is a high profile, well maintained building that performs well and should not be considered as somewhat lower than a typical older AA building.

[20] The Respondent analyzed the weighted average of the 2011 leases (28/sf) and 2012 leases (\$32/sf) and determined that there was a rising trend that supported a \$32/sf typical rate at July 2012. The Board finds the sample size (19 leases) to be too small to arrive at that conclusion. To illustrate, the Board considered the leases in three segments with 6 to 7 leases in each time period:

All leases	19 leases	Mean	31.79
		Median	29
		<b>Weighted Mean</b>	<b>30.52</b>
2011 only	6 leases	Mean	29.17
		Median	28
		<b>Weighted Mean</b>	<b>28.01</b>
Jan 1 to April 1, 2012	6 leases	Mean	35.00
		Median	34
		<b>Weighted Mean</b>	<b>33.26</b>
May 1 to July 1, 2012	7 leases	Mean	31.29
		Median	29
		<b>Weighted Mean</b>	<b>30.25</b>

Base on this sample, it could be concluded that lease rates increased in the first quarter of 2012 and declined in the second quarter closer to the valuation date; however it would be inappropriate to draw such a conclusion with so few data sets. On balance, the Board found that the leases showed the rates were relatively stable over the analysis period and that using all of the leases would yield a more reliable estimate of the typical market rate at the valuation date.

[21] The Board concluded that a \$31/sf rate was supported by the weighted mean of \$30.52 over the year. Therefore, the appropriate typical rental rate to apply to the office space in the subject is \$31/sf.

## **Issue 2 – Parking Rate:**

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

[22] The subject is located on the north end of the downtown core, not in as good a location as, for example, Bankers Hall. The Cresa report of parking rates presented by the Respondent

supports this position: Bankers Hall achieves \$600/\$525 per month for reserved/unreserved stalls while the subject achieves \$520/\$450. The TransCanada Pipelines Tower, at \$485/\$407 and the subject have the lowest parking rate of all of the AA buildings. The average monthly rate in AA buildings is \$575.50/\$505.47 for reserved/unreserved parking stalls.

[23] The Complainant submitted that the subject and TransCanada have a poor location for rental of parking spaces due to the proximity of the Calgary Parking Authority's James Short Parkade, located immediately across 5<sup>th</sup> Avenue from the subject and immediately to the east of the TransCanada Pipelines Tower. Because of the competition from the James Short Parkade, the subject cannot achieve the typical monthly parking rates of other AA buildings and a \$450/mo parking rate (\$5400/annum) is appropriate for the subject.

**Respondent's Position:**

[24] The Respondent noted that the subject does achieve the assessed parking rate for its reserved parking spaces and there is no evidence that competition from the James Short Parkade prevents the subject from getting market rates.

[25] In view of the lack of evidence, changing the parking rate for the subject property would create an inequity with other similar properties in the municipality.

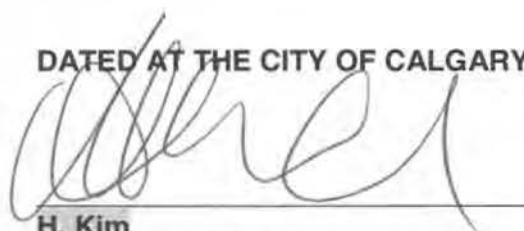
**Findings and Reasons:**

[26] While the Complainant's argument was logical, it was not supported by evidence to support the argument, such as the number of stalls and monthly rates at the James Short Parkade, or evidence of increased parking vacancy in the subject if typical rates were to be charged. The Board agrees that the reserved stalls do achieve the assessed rates and considered it possible that all of the stalls could be reserved and charged the higher rate. Accordingly the Board found the assessed \$6300 per annum parking rate to be supportable.

**Conclusion**

[27] The assessment is based on the office rental rate reduced from \$32/sf to \$31/sf with all other parameters unchanged. The calculated value for the overall building is \$960,477,200. The Board determined the assessment under complaint (the taxable portion) should be set at \$955,330,000.

DATED AT THE CITY OF CALGARY THIS 11<sup>th</sup> DAY OF September, 2013.

  
H. Kim  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Disclosure
2. C2	Complainant's Legal Brief
3. R1	Respondent Disclosure and Legal Brief
4. C3	Complainant's Legal Brief Rebuttal
5. C4	Complainant's Supplemental Rebuttal
6. C5	Complainant's Rebuttal – MGB140/01
7. R2	Respondent's Rebuttal CARB 72037P-2013
8. R3	Respondent's Rebuttal CARB 70161P-2013
9. R4	Respondent's Rebuttal CARB 70153P-2013
10. R5	Respondent's Rebuttal CARB 72052P-2013

*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.*

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Property Type	Property Sub-Type	Issue	Sub-Issues
(3) Office	High Rise	Income Approach	Net Market Rent