

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:

Verena Bentzien c/o Trivest Realty Advisors Inc.
(as represented by Altus Group.)
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Krysinski, PRESIDING OFFICER
E. Reuther, BOARD MEMBER
J. Lam, 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: 047040803

LOCATION ADDRESS: 1223 31 Avenue NE

FILE NUMBER: 72267

ASSESSMENT: \$4,500,000

This complaint was heard on 22nd day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *D. Chabot*
- *B. Neeson*

Appeared on behalf of the Respondent:

- *C. Neal*
- *C. MacMillan*

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

- [1] The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the Hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

- [2] The Subject Property comprises a 3 storey "B" quality office building, located at 1223 31 Avenue, NE, in the South Airways Industrial Park. The building has an assessed area of 38,140 square feet (sf), of which 3,857 sf is storage space. The year of construction is 1981. The building is situated on a 0.98 acre parcel of land.

Issues:

Issue # 1:

- [3] The 6.75% Capitalization Rate (cap. rate) being applied in the Income Approach is incorrect, thereby resulting in an erroneous assessment.

Issue # 2:

- [4] The total amount of storage space in the building is not being recognized in the calculation of the assessment.

Complainant's Requested Value: \$ 3,360,000

Board's Decision

- [5] On review and consideration of all the evidence before it in this matter, the Board found the Complainant's evidence was sufficient to warrant a variance in the assessed value, however, only with respect of issue #2 (storage space).
- [6] The Board reduces the assessment to \$4,090,000

Legislative Authority, Requirements and Consideration

- [7] The Calgary Composite Assessment Review Board takes authority from the Municipal Government Act and associated Government of Alberta Legislation and Regulations.

Position of the Parties**Issue # 1: The Capitalization Rate being applied in the Income Approach is incorrect.****Complainant's Position:**

- [8] Respecting the capitalization rate issue, both Complainant and Respondent have requested that all evidence and argument presented at this Hearing, be cross-referenced to this Board's scheduled Complaints as follows: File Numbers 72267; 71672; 71674; 71680; 72248; 72867; 73019; 73026; 73040; 73041; 73071; 73297.
- [9] The Complainant is requesting that the B and C quality suburban office capitalization rate be changed from 6.75% to 7.75%, in order to more accurately reflect the higher risk component inherent in older B and C Class office buildings. Specifically, office buildings constructed in 1982 and earlier.
- [10] In addition to third party and land title sales documents, various maps, aerials and photographs were provided, to offer a visualization of the location, and building characteristics of the subject and sale properties.
- [11] As supporting market evidence, the Complainant provided a capitalization rate analysis [Pg.4, C-2]:

2013 Suburban B Office Building Cap. Rate Study

Sale #	Address	Qual.	AYOC	Sale Date	Sale Price	Area sf	N.O.I	C/R	SP/sf
1	4110 79 St. NW	B-	1980	10/21/2011	\$1,400,000	10,516	\$133,278	9.52%	\$133.13
2	625 14 St. NW	C	1969	11/15/2011	\$2,160,000	17,348	\$145,038	6.71%	\$124.51
3	2805 12 St. NE	B-	1981	10/18/2010	\$2,700,000	18,647	\$214,650	7.95%	\$144.80
4	7175 12 St. SE	B	1982	1/21/2011	\$5,600,000	36,895	\$437,360	7.81%	\$151.78
5	Fisher Park	B	1969-75	2/25/2011	\$46,000,000	245,932	\$3,077,400	6.69%	\$187.04
							Min.	6.69%	\$124.51
							Max.	9.52%	\$187.04
							Median	7.81%	\$144.80
							Average	7.74%	\$148.25

- [12] It was noted that sales 1 & 2 were also included in the Respondent's evidence. Sales 3 to 5 are more dated, as far back as 20 months from the July 1, 2012 valuation date. Notwithstanding the expanded sale analysis time frame, the Complainant is of the opinion that the corresponding capitalization rates are representative of those relative to the more current sales, and the July 1, 2012 valuation date.
- [13] The Complainant submitted as evidence, summary charts of the City capitalization rate study for the suburban office A quality group, as well as the B & C quality group [C-2]. It was noted that two of the City sales, (11500 29 St. SE and 3402 8 St. SE) each indicated cap rates of 5.30%. As such, it was suggested that they were more representative of the A quality group of sales, showing median and average cap rates of 5.85% and 5.63% respectively. This is in contrast to the B quality group, in which they were placed, showing median and average cap rates of 6.01% and 6.71%. Furthermore, it was argued that their 2000 and 2003 years of construction were more reflective of the A quality than the B quality group. For these reasons, the Complainant did not include these two sales in their cap rate analysis of suburban B quality offices, and in their opinion, neither should the City.
- [14] Net operating incomes (NOI) as presented in the Altus analysis were indicated to be representative of assessed sale year NOI's, based on City information.
- [15] The Complainant provided a "Typical year of Construction for B Suburban Office" chart [Pgs. 60-62,C-2] including a sample of 102 buildings, of which 8.8% were constructed in 1998 or newer. The point being that two of the sales used in the City analysis, being newer constructed buildings, were not representative of the overall B quality group, and were therefore, in the Complainant's opinion, appropriately excluded from the Altus analysis.
- [16] Additionally, the Complainant references a number of Municipal Government Board (MGB) and Composite Assessment Review Board (CARB) decisions. The common theme referenced in these decisions was the Board's inclination towards an extended sales analysis interval, when current sales data is limited. This is in response to the City policy of limiting sales in their cap rate analyses to only those occurring in the twelve month period prior to the valuation date.
- [17] The Complainant argued that the City's assessment to sales ratio study (ASR) is inaccurate, as no time adjustments were made in the analysis. Altus also provided an ASR study in their rebuttal documents. The Altus study did not include time adjustments.
- [18] The Complainant argues that the City sale at 3402 8 St. SE should be discarded as it is their opinion that the sale is non arms-length. The reasons being that the property was sold to existing tenants, and was not officially listed with a broker prior to the sale.
- [19] Finally, the Complainant references a number of Municipal Government Board Orders, in support of their position and arguments.

Respondent's Position:

- [20] In addition to third party and Land Title sales documents, various maps, aerials and photographs were provided, to offer a visualization of the location, and building characteristics of the subject and sale properties.

- [21] In support of the assessment, the Respondent submitted a "2013 Suburban Office Capitalization Rate Summary". The summary reflected an analysis of both A quality as well as B & C quality office groups. The portion reflecting the B & C quality offices is replicated below [Pg. 98, R-1] :

2013 Office Capitalization Rate Summary

Sale #	Address	Qual.	AYOC	Sale Date	Sale Price	Area ^{sf}	N.O.I	C/R
1	11500 29 St. SE	B+	2000	08/23/2011	\$3,300,000	16,135	\$174,910	5.30%
2	3402 8 St. SE	B+	2003	03/08/2012	\$2,174,500	9,908	\$115,331	5.30%
3	4110 79 St. NW	B-	1980	10/21/2011	\$1,400,000	10,516	\$133,278	9.52%
4	625 14 St. NW	C	1969	11/15/2011	\$2,160,000	17,348	\$145,038	6.71%
							Median	6.01%
							Average	6.71%

- [22] The Respondent submits that all City sales are current, per the City policy of using only current data in the capitalization rate analyses. In this instance, that would be twelve months prior to the July 1, 2012 valuation date. The Respondent argues that by using dated sales (ie: 2010), Altus is distorting the overall average, and not capturing market value as of the valuation date. Additionally, the City responds, *"Time is an important factor, and Altus has decided to exclude the only 2012 sale of a B quality office."*
- [23] In response to the two City sales rejected by the Complainant as being more reflective of "A" quality than the applied "B" quality group, the City referenced a list of physical and economic criteria that are considered in determining a property's quality classification. Further, the City maintains that, contrary to the Altus argument, age alone is not the overall determinant of quality classification. Actual year of construction may not reflect renovations and improvements made to a property over time.
- [24] The Respondent provided ASR summaries respecting both City sales and Altus sales, comparing resultant values utilizing the assessed 6.75% cap rate and the Altus requested 7.5% cap rate. City sales with a 6.75% cap rate indicated median and average ASR's of 1.00 and 1.04 respectively. City sales with a 7.75% cap rate reflected median and average ASR's of 0.87 and 0.91 [Pg. 72,R-1]. Altus sales with a 6.75% cap rate provided median and average ASR's of 1.01 and 1.04, while the same with a 7.75% cap rate indicated 0.88 and 0.90 ASR's [Pg. 73,R-1]. This, in the Respondent's opinion, speaks to the accuracy of the subject assessed cap rate. Upon questioning, the Respondent confirmed that time adjustments were not applied in the analysis.
- [25] In addition to the four sales referenced in the City's cap rate analysis of B and C quality group offices, two post-facto (to July 1, 2012) B class office sales were provided. The sales were not utilized in the valuation process, and are submitted for the purpose of value trending, and to provide support to the applied cap rate and overall assessed

value of the subject.

- [26] In support of the assessed capitalization rates, the Respondent provided third party Real Estate Industry reports produced by Colliers, CBRE, and the Calgary Herald, relative to the second quarter of 2012 [Pgs. 279-285,R-1].
- [27] Finally, The Respondent referenced a number of MGB and CARB decisions, in support of their position.

Issue #2: The total amount of storage space in the building is not being recognized in the calculation of the assessment.

Complainant's Position:

- [28] The Complainant submits that the subject building contains 3,857 sf of storage space in the basement, as well as 4,088 sf of storage on the main floor, for a combined 7,945 sf of storage space in total. The current assessment reflects only the 3,857 sf of basement storage, and calculates the main floor area in its entirety as office space. The respective rates are \$13.00 office, versus \$3.00 storage.
- [29] Photographs were provided attesting to the unfinished status of the main floor space in question. Also provided were floor plans and drawings created by As-Built Measuring Services, detailing the interior building spaces [Pgs. 35-40,C-1].
- [30] Finally, the Complainant references CARB 1538/2012-P, a previous year Board Order on the Subject property. The identical issue was presented to the 2012 Board, and the Board's ruling was in favour of the Complainant. The assessment was adjusted to reflect the unfinished main floor space to be assessed at a storage rate of \$3.00.

Respondent's Position:

- [31] The Respondent maintains that, as the space in question is located on the main floor of an office building, it was obviously intended to have office space use at some point in time. The fact that the space has no interior finish is of no consequence.
- [32] Evidence included the same floor plans and drawings that the Complainant submitted. These were produced by As-Built Measuring Services.
- [33] Also included in City evidence, was a copy of an email document from the company that provided the measuring service. The document states: *"The storage areas on both the main floor and basement are at present used as storage and shop areas for the full building tenant This may change if multiple tenants occupy the building in the future."* [Pg.21,R-1]

Board's Reasons for Decision:

Issue # 1: The Capitalization Rate being applied in the Income Approach is incorrect.

- [34] There was insufficient market evidence from the Complainant to convince the Board that a variance to the capitalization rate is justified.

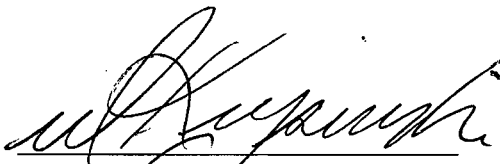
- [35] The Altus argument is based largely on whether or not two of the sales used in the City's B Office cap rate analysis should be classified as A quality rather than B quality office buildings. Altus argues the buildings' newer construction status as the sole identifiable reason for the class change. This, the Complainant argues, is manifested in the 5.30% capitalization rate reflected in the sales. When included in the B quality group, the 5.30% cap rates displayed by the two sales could be considered outliers, as compared to the group's median and average cap rates of 6.01% and 6.71%. However, as A class offices, they fit more favourably with that group's median and average cap rates of 5.85% and 5.63%.
- [36] The Board is of the opinion that the City correctly classed the referenced properties as B quality offices. As such, they are correctly included in the City analyses. Upon reviewing the evidence, the Board considers the buildings to be physically and economically compatible with the B class group, notwithstanding their newer construction status. They are of a typical B class construction quality, and documents show that they are displaying rental rates and operating costs consistent with the B quality offices. Furthermore, they are classified in an independent Industry report, (Altus Insite), as being B class offices [Pg.62,R-1].
- [37] The Board does not necessarily disagree with the Complainant's methodology of extending the analysis period when necessary, to increase data sample size. However, when doing so, one must be cognizant of sales dating as far back as 20 months, when reconciling the data analysis results. Given the more current nature of the City sales, the Board finds the Respondent capitalization rate analysis to be more indicative of the B class property group as at July 1, 2012, than that of the Complainant.
- [38] In considering the accuracy of the subject assessment relative to market value, the Board looked beyond the evidence and dialogue presented throughout the Hearing, relative to capitalization rates. The capitalization rate is but one component of the Income Approach. All valuation approaches are a process towards the ultimate purpose of providing an estimate of market value. While the Board entertains arguments respecting the accuracy of individual components (coefficients) of the Income Approach, the challenge is to demonstrate that a change to the coefficient results in an assessment that is a better or more accurate reflection of market value. Typically this is accomplished through assessment to sale ratio studies, or through comparison to market transactions of similar properties. The Board looked to the market, for an indication of accuracy of the subject assessed value. In doing so, the Board considered all sales presented by both parties. When reviewing the sale data from a sales comparison perspective, the Board was able to focus on the fundamental issue, that being the relationship of the subject assessment to market value.
- [39] Sales of B class offices rendered by the City indicated values ranging from \$124.51 psf to \$219.47 psf. The median and average sale prices per square foot are shown to be \$168.83 and \$170.41, respectively. Similarly, the Altus sales were reviewed, and they indicated a value range of \$124.51 psf to \$187.04 psf. The corresponding median and average values were \$144.80 and \$148.25.
- [40] Additionally, the Board reviewed the two post facto sales provided by the Respondent. They indicated sale prices of \$117.64 psf and \$261.00 psf.
- [41] Considering the foregoing market data, the subject assessed value at \$117.98 psf appears to be lower than the parameters of market value indicated above.
- [42] The Complainant's requested assessment of \$3,360,000 reflects a value of \$88.09 psf. There was no market evidence presented to support the requested value.

- [43] The Colliers, CBRE, and Calgary Herald Market Reports submitted by the Respondent, were reviewed by the Board, and found to be generally supportive of the capitalization rates applied by the City to B and C class offices.
- [44] The Board considered the assessment to sale ratio evidence provided by both parties, however, minimal weight was placed on this evidence, as neither party incorporated time adjustments in their analyses.
- [45] The Board reviewed the multiple CARB and MGB Board orders submitted by both parties. It is this Board's position that, while prior Decisions are considered, the Board is not bound by previous Orders. Ultimately, the Board forms its decision based on evidence and argument as presented, relative to the Hearing.
- [46] On review and consideration of all the evidence before it on this issue, the Board found the Complainant's evidence was not sufficient to warrant a variance in the capitalization rate.

Issue #2: The total amount of storage space in the building is not being recognized in the calculation of the assessment.

- [47] The Board is in agreement with the Complainant on this matter. The City has assessed the property on the basis of assumptions as to how the referenced space might be utilized in the future. The Legislated condition date is December 31, 2012 in this instance. As of that date, there was no interior finish within this space, which rendered it suitable for little other than storage.
- [48] Further to this, evidence presented by the Complainant confirmed that the subject space was being actively marketed as storage space.
- [49] Board Order CARB 1538/2012-P from the previous year respecting the same issue on the Subject property was explicit in its reasoning for reducing the referenced space to storage rates. There was no evidence from the City that anything had changed in respect of the referenced space, to suggest a different decision from this Board. The assessment has been recalculated to reflect a rental rate of \$3.00 psf for 4,088 sf of storage space. Storage area is defined per area summary chart provided by As-Built Measuring Services, on Page 41 of Exhibit C1.
- [50] The Board reduces the Subject assessment to \$4,090,000.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF August 2013.



W. F. Krynski

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Appendix A
4. C3	Complainant Appendix A continued
4. C4	Complainant Rebuttal

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 ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Suburban Office	B Class	1. Capitalization Rate 2. Storage space	