



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:

771981 Alberta Ltd. (as represented by Altus Group Ltd.) COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair; J. Zezulka
Board Member; R. Deschaine
Board Member; P. Charuk***

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: 080116197

LOCATION ADDRESS: 508 - 24 Avenue SW

FILE NUMBER: 72391

ASSESSMENT: \$12,710,000

This complaint was heard on 9 day of August, 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*
- *D. Mewha*

Appeared on behalf of the Respondent:

- *R. Ford*

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

- (1) There were no procedural or jurisdictional matters raised by either party.

Property Description:

- (2) The property consists of a 34,492 s.f. office building that contains restaurant, fast food restaurant, 24,750 s.f of office space, and 80 parking stalls contained in a two level attached parkade. It is assessed as a "B" quality building by the City of Calgary.

Issues / Appeal Objectives

- (3) The property is being assessed using the income approach. The Complainant does not dispute the valuation method. The two issues being brought before the board are the assessed parking rental rate, and the capitalization rate (cap rate). The Complainant does not dispute any of the office and restaurant rental rates, or any of the other inputs used in the City's income calculations.
- (4) Currently, the City has applied a typical parking rate of \$2,700 per stall annually, on the basis that the parking is contained in a parkade. The Complainant argues that the parking is more similar to surface parking, and should be assessed at \$2,400 annually.
- (5) The City has applied a 5.25 per cent cap rate, which is typical for class "B" office buildings. The Complainant is requesting a 7.00 per cent rate.

Complainant's Requested Value:

- (6) \$9,200,000

Board's Decision:

- (7) The assessment is confirmed at \$12,710,000.

Legislative Authority, Requirements and Considerations:

(8) This Board derives its authority from section 460.1(2) of the Municipal Government Act, being Chapter M-26 of the revised statutes of Alberta.

(9) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAC), states as follows;

"An assessment of property based on market value

(a) must be prepared using mass appraisal

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property"

(10) Section 467(3) of the Municipal Government Act states;

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(c) the assessments of similar property or businesses in the same municipality."

(11) For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.

Position/Evidence of the Parties

(12) The Board notes that the subject assessment has increased from \$6,830,000 in 2012, to \$12,710,000 in 2013, an increase of 87 per cent.

Issue 1. Parking

(13) The Complainant submitted a single page for the Assessment Request for Information (ARFI) form that showed 53 parking stalls on the subject, at \$125 per month. However, the Complainant agrees that there are actually 80 stalls, and 27 are rented out on an hourly rate. These were not included in the ARFI information submitted.

(14) The Complainant further argued that the subject parking area has no security access, and that the top level of the structure was uncovered.

(15) The complainant submitted one comparable showing that surface parking was being assessed at a rate of \$2,400 annually.

(16) The Respondent submitted photographs illustrating that surface parking was simply parking on an undeveloped, or paved site on grounds surface. Other photographs showed that the subject is no different than the Gulf Canada Parkade, which is an open air facility with an uncovered upper level, not unlike the subject.

Issue 2. Capitalization Rate

(17) The Complainant submitted a "B" Quality Beltline Office Capitalization Rate Study (Cap. Rate). Among other things, the study contained four properties that sold in 2011 and 2012, from which the Complainant derived a capitalization rate (C2, page 3). All of the sales took place in 2011 and January, 2012.

(18) The properties include the Duff Building at 525-11 Avenue SW, Alberta Place at 1520-4 Street SW, Dominion Place at 906-12 Avenue SW., and Connaught Centre at 1207-11 Avenue SW.

(19) In analysing the four sales, the Complainant adopted the 2013 assessed Net Operating

Income (NOI) to derive a capitalization rate for each property. The range of capitalization rates derived was 6.99 to 7.05 per cent. The Complainant's request is 7.00 per cent.

(20) The Board views the Complainant's methodology as faulty. No doubt, it is the correct methodology to use current rents in the previous rental rate discussion. But it is not correct to use current assessed rents, to derive a capitalization rate from a sale that occurred in 2011 and early in 2012. Rather, the prevailing rent levels at the time of each individual comparable sale should have been used to derive an indicated capitalization rate for that particular property.

(21) Using rents that are in effect for a period after the actual selling date reflects the "forward thinking" that is typically reflected by investors in an acquisition decision. But using rents typical for the July 1, 2012 effective valuation date could result in the use of rents that are higher than typical rents that prevailed at the date of the comparable sales. And, in times of a rising market, the later rents are likely to be higher than the typical rents at the sale date. Higher rents, applied to a fixed selling price from the past, produce higher capitalization rates.

(22) The Respondent based the Cap. Rate study on five property sales, three of which are common to the Complainant's study.

(23) The City did not use the Duff Building in their analysis, arguing that the property was acquired for renovation, and therefore did not represent a legitimate sale for analysis. There was no known undue influence that motivated either the seller or the purchaser. As such, a purchaser's motivation for acquisition does not detract from the legitimacy of the transaction. The Board does not accept the City's position as to the legitimacy of the transaction.

(24) Having said that, both parties agreed that the Duff Building was acquired for renovation. It follows that the building's interior was in need of some money being spent, and that aspect would have an adverse impact on income, resulting in a high cap rate indicator. The Board is inclined to reject this sale for purposes of cap rate analysis.

(25) The City also used the Keg Building at 605-11 Avenue SW, and the Cooper Block at 809-10 Avenue SW. in the analysis.

(26) The Complainant objected to the use of the Keg building as a legitimate transaction because the property was not advertised on the open market. In the opinion of this Board, simply because a property is not advertised does not detract from the sale. There could have been a "pocket" listing because the vendors requested privacy, it could have been a private transaction between two fully informed parties, or there could have been a multitude of reasons why there was no public listing, none of which might or would affect the price.

(27) The Complainant also objected to the use of the Cooper Block building because it was a portfolio transaction involving a Real Estate Investment Trust (REIT). Again, the Board disagrees. Portfolio transactions are common place in the real estate investment market. Since REITs involve shareholders, most transactions are supported by independent appraisals and other appropriate documentation. There is no reason to question the legitimacy of the Cooper Block transaction.

(28) As far as the analysis of the transactions to establish a cap rate is concerned, the City applied the NOI from the period of July 1, 2010 to June 30, 2011 to sales that took place between August 2011 and January, 2012. The rents used were in effect as long as 13 to 18 months prior to the actual sale dates. In a rising market, that practice produces lower NOIs, which results in lower cap rates.

(29) Unlike an investor, the City does not have the luxury of making rental projections based on what "might" happen, rather than rely on what is actually taking place. Because of the nature

of mass appraisal and the sheer volume of assessments, it is simply not practical to update information on an ongoing basis. As a result, the Board recognizes that the City sometimes uses typical inputs that are not as time sensitive as one would hope.

Board's Reasons for Decision:

(31) In the opinion of this Board, the Complainant's evidence regarding the classification of the parking facility was not sufficient to convince the Board that a change in the parking rate is justified.

(32) This Board is of the opinion that the cap rate analysis prepared by both parties has weaknesses. The incomes used by the Complainant, taken from the period after the effective artificially drive the indicated cap rates up. Conversely, the incomes used by the Respondent, prior to the dates of sale tend to drive the rates down.

(33) On balance, the Board considered all of the data and analysis used by both parties. The overall median cap rate is 5.46 per cent. The mean is 5.58 per cent. The property that showed the most consistency between the two parties is Connaught Centre, with reflected cap rates of 4.80 per cent from the City, and 4.83 per cent from the Complainant.

(34) For purposes of the subject property, the Board accepts the City's conclusion over the Complainant's. The capitalization rate of 5.25 per cent is confirmed.

(35) The revised assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 11th DAY OF October 2013.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1.	C1 Complainant Disclosure
2.	C2 Complainant Capitalization Rate Study
3.	C3 Complainant Rebuttal
4.	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

Decision No. CARB 72391P/2013			Roll No. 032044901	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Office	Parking, Cap Rate	Classification	Parkade or surface