



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:

***Bel-Aire Development Ltd./Quintra Development Ltd.
(as represented by Altus Group Ltd.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***B. Horrocks, PRESIDING OFFICER
P. McKenna, BOARD MEMBER
A. Zindler, 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:	200558971
LOCATION ADDRESS:	16919 24 ST SW
FILE NUMBER:	72546
ASSESSMENT:	\$11,580,000

This complaint was heard on the 9th day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6
Appeared on behalf of the Complainant:

- A. Izard (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- G. Jones (City of Calgary)

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

- [1] There were no concerns with the board as constituted.
- [2] The parties have visited the site.
- [3] The parties have discussed the file.

Preliminary Matter:

[4] The Complainant, on page 10(C-2), provided a copy of a letter to the City of Calgary dated March 1, 2013, which outlined the Complainant's request for additional information pursuant to section 299 of the Municipal Government Act (MGA). The Complainant, on pages 15 through 141(C-2), provided a copy of the City of Calgary response dated March 26, 2013. The Complainant submitted that the Respondent's Disclosure (R-1) contains information related to: 115 WILLOW PARK DRIVE SE which appears on page 60; 10735 BONAVENTURE DR SE which appears on page 61; 10210 MACLEOD TRAIL SE which appears on page 62; 10816 MACLEOD TRAIL SE which appears on page 62; 10816R MACLEOD TRAIL SE which appears on page 62 and the ARFI which appears on page 64, that was not included in the City of Calgary response. The Complainant, citing 9(4) of Matters Relating to Assessment Complaints Regulation (MRAC), requested that the Board not hear any evidence with respect to that information.

[5] The Respondent acknowledged that the information in question had not been included in the City's response letter dated March 23, 2013.

[6] The Board granted the Complainant's request and determined it would not consider any of the information identified above that appears on pages 60, 61, 62 and 64 of R-1. MRAC 9(4) requires that: "*A composite assessment review board must not hear any evidence from a municipality relating to information that was requested by a complainant under section 299 or 300 of the Act but was not provided to the complainant*".

Property Description:

[7] The subject property is a 3.26 acre parcel located in the Bridlewood community in SW Calgary. The site is improved with 3 buildings commonly referred to as Bridlewood Centre. One building is 19,463 square feet (sf), was constructed in 2008 and is classified as 'A2' quality. A second building is two floors, contains 7,734 sf, was constructed in 2008 and is also classified 'A2' quality. The third building is a 5,429 sf Bank that was constructed in 2008 and is classified 'B' quality. The subject is a Retail Strip Shopping Centre and is assessed using the Income Approach to value.

Issues:

[8] An "assessment amount" and "an assessment class" were identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there were four outstanding issues, namely: "the assessed vacancy allowance applied to the subject property should be increased to 25% to reflect the typically higher than normal 'chronic vacancy', "the assessed rental rate for CRU space <1,000 sf at the subject should be no higher than \$24 psf", "the assessed rental rate for CRU space 1,001 – 2,500 sf at the subject should be no higher than \$26psf" and "the assessed rental rate for CRU space 2,501 – 6,000 sf at the subject should be no higher than \$23 psf".

Complainant's Requested Value: \$7,680,000 (Complaint Form)
\$10,470,000 (Hearing)
\$9,950,000 (Alternate at Hearing)

Board's Decision:

[9] The 2013 assessment is reduced to \$10,470,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000, Section 460.1:

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection(1)(a).

MGA requires that:

293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

2 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.

4(1) The valuation standard for a parcel of land is

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

Board's Decision in Respect of Each Matter or Issue:

Issue: What is the vacancy allowance to be applied in the Income Approach to value, to determine the market value, for assessment purposes?

Complainant's Position:

[10] The Complainant's Disclosure is labelled C-1.

[11] The Complainant submitted the subject is experiencing a vacancy rate in excess of a typical strip centre. The Complainant submitted the subject is functionally obsolete, has long and narrow CRU units and the second floor office space in one of the buildings is not wheelchair accessible. The Complainant, at page 74 provided the following table, documenting the Chronic Vacancy Challenges:

Years Vacant	Rent Roll Date	Leased Area (sf)	Vacant Area (sf)	Total Leasable Area (sf)	Vacancy (%)
5	Jul-12	28,710.00	3,908.00	32,618.00	11.98
4	Jul-11	25,360.00	7,271.00	32,631.00	22.28
3	Jul-10	23,960.00	8,671.00	32,631.00	26.57
2	Nov-09	25,160.00	7,471.00	32,631.00	22.90
2	Apr-09	21,144.00	11,299.00	32,443.00	34.83
1	Dec-08	21,144.00	11,299.00	32,443.00	34.83
				Median	26.57
				Mean	24.91

[12] The Complainant requested that a 25% vacancy rate be applied to the subject property.

[13] The Complainant, at page 77, provided CARB 1859/2012-P, wherein the Board allowed a 20% vacancy rate, for the 2012 assessment of the subject.

Respondent's Position:

[14] The Respondent's Disclosure is labelled R-1.

[15] The Respondent submitted that, it is only one unit (unit 200) that has been consistently vacant, and that the rest of the centre has had years when, except for that one unit, there was no vacancy.

[16] The Respondent, at page 30, provided the Assessment Request for Information (ARFI) for the subject, as of June 27, 2012, noting the vacancy is 3,907.6 sf of 32,618 sf (11.98%).

[17] The Respondent, at page 72, provided a table titled 2013 Retail Vacancy Analysis Summary, noting that for SW Strips, the assessed vacancy rate is 8.50%, derived from a sample of 2,056,303 sf, which included the subject.

[18] The Respondent submitted that, the Complainant has failed to demonstrate more than a token attempt to lease the vacant space.

Complainant's Rebuttal Position:

[19] The Complainant's Rebuttal Disclosure is labelled C-3.

[20] The Complainant submitted that, there are two spaces other than the second floor space that are also vacant, and that there is a revolving vacancy at this location.

[21] The Complainant, at page 25, provided the same vacancy table with the addition of Rent Roll data from March 2013 and October 2013. The Complainant noted that, the reduced vacancy of 11.98% in July 2012 was a sign of a brief recovery, as the current vacancy, as of October, 2013, is again 23.82%.

Board's Reasons for Decision:

[22] The Board finds that as of June 27, 2012, the subject is experiencing a vacancy rate of 11.98%, which is slightly in excess of the 8.5% typical vacancy rate allowed, and not significant enough to warrant an increase. There is only one space which has been consistently vacant.

[23], The vacancy rate to be applied in the Income Approach to value is 8.5%.

Issue: What is the market net rent rate to be applied to the CRU Space 0 - 1,000 SF?

Complainant's Position:

[24] The Complainant submitted a rate of \$24.00 psf is more typical than the assessed rate of \$30.00 psf.

[25] The Complainant, at page 69, provided a table titled, 2013 CRU Rental Rate Analysis (CRU 0 to 1,000 sf). The table contains information on 6 leases with start dates from October 15, 2010 to January 1, 2012. The lease rates range from \$22.00 to \$34.00 psf and the median lease rate is \$25.75 psf. The Complainant submitted there are only two leases from the same "WS3" market area as the subject, and the median of those two leases is \$24.00 psf, which supports its request.

Respondent's Position:

[26] The Respondent, at page 60, provided a table titled, Lease Comparables – 0 to 1,000 sf CRU. The table contains information on 4 leases however the lease at 115 Willow Park SE was removed during the preliminary issue. The Respondent noted the remaining 3 leases have rates of \$24.00, \$33.00 and \$34.00 psf and the median lease rate is \$33.00, while the subject is assessed at the rate of \$30.00 psf.

Board's Reasons for Decision:

[27] The Board finds the requested rate of \$24.00 psf is a typical rental rate which is supported by the Complainant's lease in the subject and by the lease in the closest comparable located at 17103 James McKeivitt Road SW.

[28] The rate to be applied to the CRU Space 0 - 1,000 sf is \$24.00 psf.

Issue: What is the market net rental rate to be applied to the CRU Space 1,001 - 2,500 SF?

Complainant's Position:

[29] The Complainant, at page 69A, provided a table titled, 2013 CRU Rental Rate Analysis (CRU 1001 - 2,500 sf). The table contains details of 17 leases with start dates from March 1, 2010 to March 1, 2012. The lease rates range from \$19.00 to \$34.00 psf with a median lease rate of \$26.00 psf. The Complainant noted there are two leases in the subject at the rate of \$26.00 psf, which support its request.

Respondent's Position:

[30] The Respondent, at page 61, provided a table titled, Lease Comparables – 1,001 to 2,500 sq ft CRU. The table contains details of 10 leases however the lease at 10735 Bonaventure Drive SE was removed during the preliminary issue. The Respondent noted the remaining 9 leases range from \$26.00 to \$34.00 psf with a median lease rate of \$28.00 psf, which supports the assessment.

Board's Reasons for Decision:

[31] The Board finds the Complainant's evidence more compelling. Two leases in the subject property support the requested lease rate of \$26.00 psf.

[32] The market net rental rate to be applied to the CRU Space 1,001 - 2,500 SF is \$26.00 psf.

Issue: What is the market net rental rate to be applied to the CRU Space 2,501 - 6,000 SF?

Complainant's Position:

[33] The Complainant, at page 70, provided a table titled 2013 CRU Rental Rate Analysis (CRU 2,501 to 6,000 sf). The Table contains details of 7 leases with start dates from January 23, 2010 to February 4, 2012. The lease rates range from \$15.00 to \$31.80 psf with a median lease rate of \$23.00 psf. The Complainant noted there are two leases in the "WS3" market area (one in the subject) with lease rates of \$23.00 psf, which support its request.

Respondent's Position:

[34] The Respondent, at page 62, provided a table titled, Lease Comparables – 2,501 to 6,000 sq ft CRU. The table contains details of 7 leases, however the leases at 10210 Macleod Trail SE, 10816 Macleod Trail SE and 10816R Macleod Trail SE were removed during the preliminary issue. The remaining 3 leases are \$23.00, 30.00 and 31.80 psf. The Respondent noted the subject is assessed at the rate of \$27.00 psf.

Board's Reasons for Decision:

[35] The Board finds the Complainant's evidence more compelling. The lease in the subject, and the lease in the closest comparable at James McKeivitt Road SW, are typical rental rates which support the requested rate of \$23.00 psf.

[36] The market net rental rate to be applied to the CRU Space 2,501 - 6,000 SF is \$23.00 psf.

DATED AT THE CITY OF CALGARY THIS 14th DAY OF November 2013.



B. Horrocks

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 Rebuttal
4. C3	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 Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Strip Plaza	Income Approach	Rent rate & Vacancy rate