



## **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:

***Balboa Land Investments Inc. (as represented by Altus Group Ltd.) COMPLAINANT***

and

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

before:

***K. Thompson, Presiding Officer***  
***K. Farn, Board Member***  
***R. Cochrane, 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>068082908</b>
<b>LOCATION ADDRESS:</b>	<b>102 8 Av SW</b>
<b>FILE NUMBER:</b>	<b>72584</b>
<b>ASSESSMENT:</b>	<b>\$8,960,000</b>

This complaint was heard on 21 day of October, 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:

- M. Cameron Agent, Altus Group Lt.

Appeared on behalf of the Respondent:

- E Borisenko Assessor, City Of Calgary

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

[1] The Complainant requested to carry forward the Rebuttal Evidence from file 72588. The Board had no issue with that request. The Board proceeded to hear the merits of the complaint.

**Property Description:**

[2] The subject property, a retail/office building known as the Hudson's Block, is located at 102 8 Av SW on the Stephen Avenue Mall (in the DT8 zone of the downtown core). The building was constructed in 1971, renovated in 2006, and is classified as an A2 quality by the City of Calgary. The building is assessed as having 29,359 square feet (sf) over two stories with storage in the basement and is sited on a parcel size of 0.3 acres. It is currently occupied as a two story office building by a single tenant.

[3] The Subject property is assessed on the Income Approach to Value with a main floor of 10,193 sf at a typical rate of \$36.00 per square foot (psf) a second floor of 13,409 sf at a rate of \$18.00 psf and storage of 5,757 sf at \$5.00 psf. The capitalization rate is 5.50%. The 2013 assessment is \$8,960,000.

[4] This property has a tax exempt portion under a separate account which is not under complaint.

**Issues:**

[5] The main floor office space in the subject building would better reflect the market at a rate of \$26.00 psf not the \$36.00 rate psf used for its current assessment.

**Complainant's Requested Value: \$7,660,000**

**Board's Decision:**

[6] The assessment is confirmed at \$8,960,000.

**Legislative Authority, Requirements and Considerations:**

[7] The *Municipal Government Act*, 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 460 (1)(a).

**Position of the Parties****Complainant's Position:**

[8] The Complainant stated that the subject property operates as an office building with a single tenant, occupying both the main and second floors of the building. The Complainant contends that the \$36.00 psf typical rate used on the main floor of this A2 class office is the highest office rate in the City, higher even than AA class office buildings in the Downtown core. The Complainant contends the subject's main floor office space should be assessed similarly to other competing A2 office space in the area. A reasonable comparison according to the Complainant would be the \$26.00 psf used as typical office rates for properties such as Gulf Canada or the Scotia Bank Tower.

[9] The Complainant submitted the 2012 rent roll for the subject property showing that currently the tenant is paying \$27.17 psf rent for 23,602 sf [pg 21-22, C1]. There is zero vacancy in the building and the current lease runs from 2010 to 2017. The Complainant included photos and maps of the subject property in the evidence.

[10] The Complainant introduced seven office equity comparables with corresponding assessment information to demonstrate the range of office rates in the downtown core [pg 34-57, C1]. These were:

- 1) Bankers Hall West – AA class building having a typical office rate of \$32.00 psf.
- 2) 8<sup>Th</sup> Avenue Place – AA class building having a typical office rate of \$33.00 psf
- 3) TD Square – A2 class building having a typical office rate of \$ 26.00 psf.
- 4) Scotia Tower – A2 class building having a typical office rate of \$26.00 psf.
- 5) Gulf Canada Square – A2 class building having a typical office rate of \$26.00 psf.
- 6) First Canadian Centre (BMO Building) – A2 class building having a typical office rate of 26.00 psf.
- 7) Watermark Tower – A- class building having a typical office rate of \$24.00 psf.

**Respondent's Position:**

[11] The Respondent stated that the subject property is the only property on the Stephen Av Mall that has office space on both the main and second floors. Historically in this market zone

there has been one rate for the main floor regardless of use and a second rate for the upper floors (different rates depending if it is retail or office) and one rate for storage. All other typical factors in this zone are applied to all properties, regardless of class.

[12] The Respondent contends that the subject property's current rent is not a valid market indicator as the parties in the lease agreement are related. The Respondent submitted the subject property's 2012 rent roll along with a Corporate Search document that showed the owner, Balboa Land Investments Inc., is related to the tenant on the lease, Coril Holdings.

[13] A number of CARB Decisions were submitted for the Boards consideration including the subject property's 2012 Decision confirming the assessed value.

[14] The Respondent provided a chart of the Complainant's seven comparables [pg 38, R1] showing how these properties do not compare with the subject and breaking the assessment amount down to a rate per square foot. The range of the comparables rate psf was \$416.19 psf to \$556.45 psf with a median of \$439.59 psf. The Respondent then compared this to the subject's current \$356.42 psf rate. The conclusion given by the Respondent was that the subject at its current assessed value is considerably lower than the Complainant's comparisons and should not be reduced further.

[15] The Respondent noted that all of the Complainant's comparables were; not representative of main floor space in the building (no leases were placed into evidence to show the value of main floor office lease rates); considerably larger in size than the subject property (subject property is about 2% of the size of many of the comparable properties); and most of the comparables offered underground parking and amenities. As well, the Respondent noted that all comparable office space identified in the Complainant's evidence was in the DT1 zone, not on the very unique area of Stephen Av (DT8) where the subject property is located.

[16] The Respondent offered a chart of equity comparables that included 34 properties on Stephen Avenue (DT8) to demonstrate that all properties are valued the same [pg 40, R1].

[17] The Respondent provided the rental rate analysis of the DT8 retail space (all other properties on Stephen Av have retail on their main floors) showing nine rental rates with a median of \$45.00 and \$35.50 without the Alberta Block rents (as the Respondent stated that this building is far superior to the typical in this area). The Respondent also provided three post facto rental rates to show the trend in rents supports the current typical rate [pg 41, R1]. The Respondent noted that while this property had office space on the main floor the design of the building, window size and door way would lend itself to a retail use if so desired by the owner or tenant.

[18] The Respondent provided six sales in this zone to support the market value [pg 42, R1] along with backup documentation.

### **Complainant Rebuttal**

[19] In the Rebuttal document the Complainant included two leases that it believes are valid comparisons to the subject property. The Complainant contends that these are the only leases that should have been used to determine typical rental rates for this type of building, in this location [pg 4, C2]. The two leases are the Ashdown building at a \$31.00 rate psf and the Ward Block at \$21.00 psf for a median value of \$26.00 psf.

[20] The Complainant presented further evidence on several of the Stephen Avenue leases including 105 8 Av SW, a 2010 \$21.00 lease and 221 8 Av SW, a 2011 \$21.65 lease [pg 4-26].

[21] With respect to the Respondent's equity chart [pg 28, C2], the Complainant recreated the chart and added a column to show eleven of the 34 properties are multi floor with a single tenant occupying 100% of the building

[22] The Complainant provided a rebuttal to 2013 Rental Analysis Stephen Av DT8 [pg 41, C2] and provided a chart with the City's nine leases but reanalyzed the results. The Complainant only included properties that they considered to be typical for Stephens Avenue. This excluded the properties that had, in the Complainant's opinion, the advantage of having access to Scotia Mall and those in the Alberta Block (this is a unique property called Fashion Central and almost a small mall). The Complainant contends that this leaves three leases that would truly represent those properties on Stephen Av. These three leases have a mean of \$32.33 psf and median of \$31.00 psf. Photographs were provided for Scotia Centre mall and Fashion Central to accentuate why these would not be typical properties to include in the rental study.

[23] The Complainant included several Board Decisions for the Boards consideration.


**Board's Reasons for Decision:**

[24] The Board reviewed all the evidence presented by both the Complainant and Respondent. It must be noted that while the Board pays heed to previous Board Decisions it is not bound by their decisions. The Board must decide this case based on the evidence and argument before it. The Board notes that the nature of the submissions dictates that, in some instances, certain evidence will be deemed more relevant than others so the Board will restrict its comments to the evidence it deemed relevant.

[25] The Board finds that the Complainant has insufficient evidence of leases along Stephen Av to demonstrate that the requested rate of \$26.00 psf was a more appropriate rate for the main floor of this property, regardless of what the space was being used for. All rental rate evidence presented came from a different market area (DT1), a very different type of property and above the main floor. In addition, the Board notes that all comparable office rates presented were applied uniformly to all office space in those properties. The Complainant's request for this property was contrary to this, requesting only the main floor rate of this property be reduced, leaving the lower second floor rate in place.

[26] The Complainant has failed to meet the onus of proof. Notwithstanding the properties current use, the subject location is in a prime retail location and the Board accepts that the highest and best use would likely be retail, as seen in the majority of the properties in this area. In the absence of evidence to the contrary, the Board accepts the rental rate of \$36.00 psf and confirms the assessed value.

DATED AT THE CITY OF CALGARY THIS 21<sup>st</sup> DAY OF November 2013.

  
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K. Thompson

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 Rebuttal common evidence from file 72588
3. 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.*

Property Type	Property Sub-Type	Issue	Sub issue
retail	Stand alone	Income approach	Rental rate/lease rate