



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:

Westfield Willowglen Ltd. (as represented by Altus Group Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Glenn, PRESIDING OFFICER

T. Usselman, BOARD MEMBER

D. Julien, 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: 201632197

LOCATION ADDRESS: 1729-8 Ave NE

FILE NUMBER: 72604

ASSESSMENT: \$26,220,000

This complaint was heard on Wednesday, the 26th day of June, 2013 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 4.

Appeared on behalf of the Complainant:

- Danielle Chabot, Agent

Appeared on behalf of the Respondent:

- Christina Neal, Assessor

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

[1] When asked, neither party raised any issues with regard to either Jurisdiction or, Procedure.

Property Description:

[2] The subject is a 20.63 acre parcel of land with 11 separate but very similar office buildings on site, built in 1980, located in the district of Mayland in NE Calgary with a total rentable area of 283,125 SF of class C space.

Issues:

[3] The issues stated by the parties are:

- (a) Vacancy Rate
- (b) Rental Rate

Complainant's Requested Value:

[4] \$18,230,000

Complainant's Position:

[5] The Complainant argues that the subject has suffered from chronic vacancy for many years and because of this, it cannot lease for the typical Class C Rental Rate, so, it claims a relationship between the subject issues. They also opine that when considering leasing, the subject is underperforming when compared to the assessed rental rate.

[6] The Complainant also argues that the subject property is highly visible from the Deerfoot

Trail, but they claim the location of the subject is poor because it cannot be accessed directly from Deerfoot Trail and the existing access is hard to find and limited. The subject complex can only be accessed from either end. The current vacancy rate is 16%, but the Complainant suggests that 22% would be a more accurate figure.

[7] They go on to note that the average vacancy rate for the last 3 years is 22.85%, with the average during the valuation year being 21.97%. The Complainant relies on **CARB 0655-2012-P** and several other similar decisions for the proposition that the higher vacancy rate should be employed based on the average vacancy rate for a particular period.

[8] Arguing the second issue, that of rental rate, they state that the assessed rental rate of \$11/SF is simply too high and it should be lowered to \$10/SF, and they present a chart of recent leasing from within the subject complex which seems to support the \$10/SF figure. The Complainant also argues that the Respondent has increased the lease rate when the weighted average of leases has decreased and the vacancy rate has stayed the same year over year.

[9] In rebuttal, the Complainant states that the Respondent is using the same argument as last year and it was not successful then. They also argue the Respondent is relying on typical values whereas the appropriate approach is to use actual values.

Respondent's Position:

[10] The Respondent commences their argument by stating that chronic vacancy is the result of a problem, not the cause of the problem. They carry on noting that they have previously adjusted the class of the subject from a B, down to a C classification. They also note that the subject property sold in 2011 for \$30,000,000. They argue the subject has ample parking.

[11] The Respondent goes on to say that if we compare the subject's actual effective net income to that of the typical (2012 assessment), we are assessing vastly below the actual income the property is producing. Essentially, they are questioning Effective Net Income.

[12] They attempt to counter the Complainant's argument by stating that the Complainant's recent lease information is all post facto. They argue **CARB 1456/2011-P** supports their point of view where it states: "The CARB is of the opinion that the Complainant's issues are largely site specific without any support from market evidence"

[13] The Respondent goes on to argue that the purpose of this whole exercise is to determine the market value of the subject. They go on to agree that there is chronic vacancy in the subject complex, but they state that changing the class of a property corrects the assessment. They complete their argument by stating that the matter turns on effective net income, and that the quality change earlier discussed shows that the Respondent is fair and equitable.

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

[14] The Board finds that the subject vacancy rate should be increased to 22% and the rental rate should not change based on the evidence before the Board

[15] Based on all of the foregoing, the calculation of the decreased assessment would be

as follows:

283,125 SF X \$11/SF	=	\$3,114,375
Vacancy now 22%	=	- \$685,163
Equals	=	\$2,249,212
Vacant space short fall	=	- \$788,594
and a non-recoverable of 1%	=	- \$24,292
Balance	=	\$1,626,326

Assuming a cap rate of 6.75%, an NOI of \$24,093,718 and exempt property valued at \$3,754,000, this leaves an assessment of \$20,330,000.

Board's Decision:

[4] The subject assessment is herewith reduced to \$20,330,000.

DATED AT THE CITY OF CALGARY THIS 26th DAY OF JULY, 2013.



R. Glenn
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 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.*