



**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:**

***Western Securities Limited (as represented by Altus Group Limited), COMPLAINANT***

**and**

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

**before:**

***I. Weleschuk, PRESIDING OFFICER  
R. Deschaine, BOARD MEMBER  
B. Jerchel, 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>112142625</b>
<b>LOCATION ADDRESS:</b>	<b>7101 5 Street SE</b>
<b>FILE NUMBER:</b>	<b>72617</b>
<b>ASSESSMENT:</b>	<b>\$9,010,000</b>

This complaint was heard on 17<sup>th</sup> day of September, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- D. Chabot

Appeared on behalf of the Respondent:

- M. Ryan
- L. Dunbar-Proctor

**Procedural or Jurisdictional Matters:**

- [1] The Board noted the file includes a completed copy of the Assessment Review Board Complaint form and an Assessment Complaints Agent Authorization form.
- [2] Neither party objected to the members of the Board, as introduced, hearing the evidence and making a decision regarding this assessment complaint.

**Property Description:**

- [3] The subject property is a multi-tenant low-rise office building located in the Fairview Industrial District, backing onto Blackfoot Trail, with access via 5<sup>th</sup> Street SE. The property has a total of 26,999 square feet (SF) of assessable office area on three levels with 15 underground parking stalls. The property is designated as A+ Quality office, constructed in 1999. The 2013 assessment is \$9,010,000 calculated using the income approach based on a rental rate of \$21/SF, vacancy allowance of 4% and operating costs of \$12.50/SF for the office portion. The parking stalls are assessed at \$1,080 per stall, with 2% vacancy allowance. The capitalization rate for the property is 6.00%.

**Issues:**

- [4] The parties presented evidence and argument on a number of topics. This Decision will address only the evidence and argument the Board considers relevant to the issues. The Complainant disputed the quantum of the 2013 assessment and raised the following issue.
  1. What is the correct office rental rate for assessment purposes? (This issue was encased in an issue related to the quality classification of the property.)
  2. Is the 2013 assessment equitable?

**Complainant's Requested Value:** \$7,300,000

**Board's Decision:**

- [5] The Board reduces the 2013 Assessment to \$7,300,000.

**Legislative Authority:**

- [6] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

**Issue 1: What is the correct office rental rate for assessment purposes?**

**Complainant's Position:**

- [7] The Complainant's position is that because the quality classification of the subject property was changed from A2 Quality in previous years to A+ Quality for the 2013 assessment, the office rental rate used in the income approach calculation does not reflect the market rents that can be achieved by the subject property, therefore the 2013 assessment is incorrect. The Complainant stated that nothing has changed to the physical status of the building, nor the subject market to warrant a change in quality. Furthermore, there is no new leasing in the subject property to indicate that rental rates changed from the previous year.
- [8] The Complainant presented a copy of the City's 2013 Suburban Office Rental Analysis: A2 and A- Quality SE on page 42, Exhibit C1, showing that the rental rate assigned to this class of properties is \$17.00/SF. Page 69, Exhibit C1 presents the City's 2012 lease data, showing that the office rental rate was \$17.00/SF for this quality classification in 2012. The Complainant argued that the leasing data supports the contention that the lease rates that can be achieved by the subject building have not changed.

**Respondent's Position:**

- [9] The Respondent stated that the quality classification was changed to better reflect the value of the subject property, and the rents that it can achieve. The subject Assessment Request for Information (ARFI) document dated October 12, 2012 was submitted in evidence (page 19-21, Exhibit R1) showing that the actual rental rates are at \$22.00/SF, with the last new lease signed in October 2009.

- [10] The Respondent presented the 2013 Suburban Office Rental Analysis: A+ Quality SE data used by the City to determine the rental rate for this quality classification of office properties to support the \$21/SF rate used in the 2013 assessment (page 43, Exhibit R1). The Respondent also presented a revised 2013 Suburban Office Lease Analysis: A+ Quality SE in response to information presented at previous Board hearings, which also supports the \$21/SF rental rate assigned to this property classification. The Respondent also presented assessment information to demonstrate that other A+ Quality buildings in the SE were assigned a rental rate of \$21/SF.

#### **Findings of the Board on this Issue**

- [11] Section 285 MGA requires that each municipality prepare an assessment annually. Section 289(2) MGA requires that the assessment reflect the characteristics and physical conditions of the property on December 31 of the year in which a tax is imposed. The Board interprets this to mean that each assessment is an annual, stand-alone valuation and that in attempting to achieve an assessment that reflects the market value of the assessed property in each assessment year, the municipality may change how it does an assessment. The Board puts little weight on the assessments from previous years.
- [12] The Board considered the ARFI information provided by the Respondent and finds that the leases are not current, therefore the current lease rates may not reflect the typical rates that may be achieved by the subject in the current market.
- [13] The Board considered the lease comparables presented by both parties. The only lease comparable from the Fairview Industrial area presented by the Respondent in their A+ Quality analysis appears to be a lease-back, with the details of that lease disputed by the parties. The Board puts little weight on this comparable. The Complainant presented two comparable leases for properties located at 807-42 Avenue SE (December 2011 lease at \$16.25/SF) and 4411-6 Street SE (July 2012 lease at \$17.28/SF) that the Board finds reflect the subject market lease rates. Based on a review of the lease comparables, and relying on the aforementioned two leases presented by the Complainant, the Board concludes that the rental rate for the subject property is \$17/SF.

#### **Issue 2: Is the 2013 assessment equitable?**

##### **Complainant's Position:**

- [14] The Complainant's position is that the subject property, for a variety of reasons is more comparable to other A- and A2 quality office properties. The Complainant presented photographs and assessment documents as evidence.

- [15] In rebuttal (Exhibit C2) and summarized on page 4, Exhibit C2, the Complainant presented evidence and argued that the four equity comparables presented by the Respondent were not valid comparables. One of the equity comparables apparently underwent considerable renovation in the last year, to go from a B quality to A+ quality building. The other three comparables are apparently under appeal.
- [16] The Complainant argued in rebuttal that location was not the only factor that influenced rental rates, and that other factors also have to be considered.

#### **Respondent's Position:**

- [17] The Respondent stated that the quality classification was changed to better reflect the value of the subject property, to make the assessment more equitable with similar office buildings in the area and proximal to the subject.
- [18] The Respondent presented four equity comparables, summarized on page 23, Exhibit R1 with support information following, to demonstrate that the subject property was equitably assessed at a rate of \$21/SF.

#### **Findings of the Board on this Issue**

- [19] Section 460.1(2) MGA sets out the jurisdiction of a composite assessment review board and states in part that the "...board has jurisdiction to hear complaints about any matter referred to in section 460(5) MGA that is shown on an assessment notice...". The Board notes that Section 460(5) MGA does not refer to quality classification. Further, Section 334 MGA describes what is to be shown on the tax notice, with no mention of quality classification. This section also refers to information shown on the tax roll, which is described in Section 329 MGA, and does not contain any reference to quality classification. The Board has no jurisdiction to consider "quality classification" and finds that this "factor" is one that some municipalities may use as a tool to assist in the preparation of an assessment. The Board points out the distinction between "assessment class" referred to in Section 460(5) MGA and "quality classification" shown on City of Calgary Property Assessment Detail Reports which are neither a tax notice or the tax roll.
- [20] The Board considered the equity comparable evidence and argument presented by both parties. Much of the evidence is based on photographs of the exterior of these buildings, along with assessment documents. There was little actual evidence regarding the components of each of the comparable properties that may impact quality. The range of factors exhibited by the various properties presented as equity comparables is considerable. The Board is not persuaded by either party that based on equity alone, the 2013 assessed value or the requested assessment is inequitable. The Complainant, in Exhibit C2 presented some indication of the sale price per square foot of some of the equity comparables, but these prices were not time adjusted and do not provide the Board with a reliable basis to consider the assessed value.

**Board's Reasons for Its Decision**

- [21] The Board reduces the 2013 assessment to \$7,300,000 based on changing the office rental rate to \$17/SF in the income approach 2013 assessment calculation. The Board notes that all the other income approach factors used to calculate the assessment for quality class A2 or A+ properties are the same and were not contested.

DATED AT THE CITY OF CALGARY THIS 3<sup>rd</sup> DAY OF October 2013.



**Ivan Weleschuk**  
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 Disclosure
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.*

**For MGB Administrative Use Only**

<b>Subject</b>	<b>Type</b>	<b>Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Office	Suburban Low rise	Rental rate - office	Equity