



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:

***CAL-ED FIFTH AVENUE HOLDINGS LIMITED, (as represented by Altus Group Ltd.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***R. Fegan, PRESIDING OFFICER
J. Lam, BOARD MEMBER
R. Roy, 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: | 067049205 |
| LOCATION ADDRESS: | 639 5 AV SW |
| FILE NUMBER: | 72623 |
| ASSESSMENT: | \$97,600,000 |

This complaint was heard on the 29th day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- M. Cameron, (Altus Group Ltd.)
- S. Meiklejohn, (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- E. Borisenko (City of Calgary)

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

[1] As a procedural matter the Board was requested and agreed to carry forward the evidence from file number 72732 as it relates to the capitalization rate.

Property Description:

[2] The subject property is known as the Standard Life Tower. It is classified as a class B office building for assessment purposes. It has 269,648 square feet of assessed office space, 10,777 square feet of assessed retail space and 83 assessed parking stalls.

[3] A portion of the property is occupied by an exempt tenant and is assessed on a separate account.

Issues:

[4] The assessed areas do not correctly reflect the amount of recreational space or second floor retail space.

[5] The rental rate applied to the office space is incorrect.

[6] The capitalization rate applied to the property is incorrect.

[7] The capitalization rate applied to the subject should be increased by .5% as an equity adjustment.

Requested Value: The Complainant provided two proposed revised assessments.

\$79,160,000 (C-1, page 31)

\$80,910,000 (C-1, page 32)

Board's Decision:

The complainant is denied and the assessment is confirmed.

Position of the Parties

Complainant's Position:

[8] The Complainant provided a corrected page 30 for exhibit C-1 with a "Corrected Space Breakdown. The total rentable area in this breakdown was 282,276 square feet.

[9] The Complainant argued that the rental rate applied to the subject was too high and should be \$16.00 and not \$19.00 per square foot.

[10] The Complainant argued that the City's method of calculating the capitalization rate was inconsistent and therefore incorrect. The Complainant argued that the Respondent's use of net operating income taken from the midpoint of the year in which the sale took place created an inconsistency and resulted in a capitalization rate that was too low.

[11] The Complainant provided a rental study (exhibit C-1, pages 57 – 59) of Class B properties located in DT-2 and DT-3. The analysis included 63 leases and covered the time frame from July 01 2011 to June 01 2012. The median rent was \$16.00 and the average rent was \$16.58.

[12] The Complainant provided market reports from Colliers International and CB Richard Ellis. These reports indicated capitalization rates higher than those used by the Respondent.

[13] The Complainant provided a capitalization rate study using five sales. The Complainant's study provided three different scenarios with a total of fifteen different capitalization rate estimates and then summarized this information into three different conclusions depending on the net operating income that was used in the calculation.

[14] The Complainant argued that the capitalization rate for Class A buildings had been adjusted upwards by a half point and requested that the capitalization rate for class B buildings also be adjusted upwards by a half point in order to be consistent and maintain equity between the different classes of office buildings.

[15] The Complainant provided several 2013 Assessment Review Board decisions on business assessment complaints in which the LARB accepted a rental rate of \$16.00 as being appropriate for B class buildings in Downtown Two West (DT2W) zone.

[16] The Complaint argued that the rental rate analysis conducted by the Respondent was flawed because it included three leases that the Complainant felt should be eliminated from the analysis for various reasons. The Complainant argued that two leases in the Energy Resources building should be eliminated from the study because that building had undergone significant renovations prior to the commencement of these leases. The Complainant argued that the lease in Panarctic Plaza which commenced on July 01, 2012 should be eliminated because the commencement date was outside the "analysis period".

Respondent's Position:

[17] The Respondent provided a copy of an Assessment Request for Information Form provided by the property manager to the City of Calgary on September 18, 2012 (exhibit R-1

pages 23 – 33). This document indicated a total rentable area for the building of 280,425 square feet. There was an annotation on the document indicating that as of November 15, 2012 the property manager for the building had changed from Standard Life to Arcturus Realty.

[18] Information on this document indicated that there had been recent leasing within the subject property. The rental rates for those recent leases (August 2011 – June 2012) ranged from \$17.25 to \$20.75 with a weighted mean of \$19.62

[19] Page 38 of exhibit R-1 was one page from the 2013 Assessment Request for Information. This page indicated that an appraisal had been done on the subject property effective December 31, 2012 for an amount of \$122,200,000. A copy of the covering letter that accompanied the appraisal was also included.

[20] The Respondent provided a copy of the Real Net Report for the November 15, 2012 sale of the subject property. The sale was reported to be a market transaction brokered by CB Richard Ellis for an amount of \$114,200,000.

[21] The Respondent provided a rental analysis for class B buildings located in Downtown 2, and Downtown 3. The analysis contained a sample of 66 leases, 36 from 2011 and 30 from 2012. The overall weighted mean was \$17.47. The weighted mean for 2011 was \$15.27 and the weighted mean for 2012 was \$20.12. The Respondent had selected a rate of \$19.00 per square foot as the typical market rent as of July 01, 2012 for class B buildings in DT-2.

[22] The Respondent provided a "what if" scenario (exhibit R-1, page 57) which allocated separate rental rates for recreational space and second floor retail space. This breakdown was based on a total rentable area of 282,453 square feet and resulted in a higher assessed value than is the subject of this complaint. The Respondent also provided a copy of a leasing advertisement brochure for the subject property indicating a building size of 280,425 square feet.

[23] The Respondent testified that the class A capitalization rate had been calculated in the same manner that the class B capitalization rate had been calculated. The median class A capitalization rate was 5.83% and the average class A capitalization rate was 5.88%. The Respondent had rounded the class A capitalization rate to 6%.

[24] The Respondent provided a chart (exhibit R-1, page 70) showing the relative assessment per square foot for each of the various quality classes of office buildings in downtown Calgary. This chart indicated that the assessment per square foot increased as the quality class increased.

[25] The Respondent provided a number of 2013 Composite Assessment Review Board decisions in which the CARB had confirmed the assessment of class B office buildings that had been assessed using a 5% capitalization rate (exhibit R-1, page 169).

Board's Reasons for Decision:

[26] The Board found that the assessed area of the building was 280,350 square feet (exhibit R-1, page 7). This figure was very close to the area provided to the City of Calgary by the owner (Exhibit R-1 page 23) and contained in their marketing brochure (Exhibit R-1, page 51, 280,425 square feet). The Board found no reason to increase the assessed area of the building, or change the space allocations relative to their use.

[27] With respect to the rental rate used to assess the subject property the Board found that

recent leasing within the subject building supported the market rental rate used to assess the subject property.

[28] With respect to the equity issue of raising the capitalization rate by a half point because the Class A capitalization rate had been increased by a half point, the Board found no evidence that a half point had been added to the class A capitalization rate. The mean and median of the Class A capitalization rate study using eight sales from both 2011 and 2012 is 5.88% and 5.83% respectively and a rate of 6% was applied to Class A buildings.

[29] With respect to the method of calculating the capitalization rate, the Board found that typical market rent should be used to calculate the capitalization rates for property assessment purposes. The Board found that the typical market rents should be taken from a time frame as close as practical to the sale date of each sale used in the analysis. The Board noted that in the analysis on page 94 of exhibit C-1, the two highest capitalization rates were derived when the 2012 income was applied to sales which occurred in 2011.

[30] The Board found that the standard for property assessment in Alberta is market value as defined in the Municipal Government Act. The Board found that the November 15, 2012 sale of the subject property for \$114,200,000 was a clear indication that the assessed value of the subject property does not exceed market value.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF November 2013.



R. Fegan

Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

| NO. | ITEM |
|------------|------------------------|
| 1. C1 | Complainant Disclosure |
| 2. 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.*

CARB Identifier Codes

| Decision No. | | Roll No. | | |
|------------------------------|-----------------------------|---------------------------------|---------------------|-------------------------|
| <u>Complaint Type</u> | <u>Property Type</u> | <u>Property Sub-Type</u> | <u>Issue</u> | <u>Sub-Issue</u> |
| CARB | Commercial | Office | Market Value | Cap Rate |

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