



## **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:**

***801 Seventh Inc. (as represented by Altus Group Ltd), COMPLAINANT***

**and**

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

**before:**

***F. Wesseling, PRESIDING OFFICER***

***H. Ang, BOARD MEMBER***

***T. Livermore, 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: 067243402**

**LOCATION ADDRESS: 801 7 Ave SW**

**FILE NUMBER: 72660**

**ASSESSMENT: \$255,610,000**

This complaint was heard on 25 day of July, 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:

- S. Meiklejohn Agent, Altus Group Ltd
- D. Hamilton Agent, Altus Group Ltd

Appeared on behalf of the Respondent:

- D. Zhao Assessor, City of Calgary
- D. Grandbois Assessor, City of Calgary

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (MGA). The parties did not object to the panel representing the Board as constituted to hear the matter.

[2] The Board accepted the request from both parties to carry forward evidence submitted, questions and answers and rebuttal information for this hearing that was presented for File 72642, Roll no 067078899, 735 8 Ave SW. It is noted, the carrying forward of information does not mean decisions will be the same for each hearing, for each must stand on its own merits.

[3] The Respondent expressed a concern about new information and arguments being introduced in the rebuttal documents (C3 and C4). Having regard to section 8(c) of *Matter Relating to Assessment Complaints Regulation* (MRAC), the Board reviewed the matter and ruled that pages 11-37 and pages 71 to the end of the Rebuttal Document identified as C3 and pages 205 to the end of the Rebuttal document identified as C4 be ruled as inadmissible.

#### **Property Description:**

[4] The downtown property is known as Nexan Tower and consists of a multi story (37 floors) office complex. The building was constructed in 1979. The building contains 604,164 square feet of assessable space which includes retail which includes retail and storage space. Three hundred and thirty eight (338) parking spaces are provided in the building. The City of Calgary Land Use Bylaw designates the property as "Downtown Business District". For assessment purposes the building is classified A minus and is located in DT2 market area.

#### **Issues:**

The Complainant raised the following matter in Section 4, item 3 of the Assessment Complaint form: Assessment amount

Presentation of the Complainant and Respondent were limited to:

-Office Rental Rate

- Parking Rate
- Capitalization rate

Complainant's Requested Value: **\$233,590.000**

**Board's Decision:**

[5] Upon reviewing the evidence provided by the parties, the Board found that the Complainant failed to demonstrate that the assessment was in excess of market value.

The Board confirms the assessment at **\$255,610,000**.

**Legislative Authority, Requirements and Considerations:**

[6] Both parties submitted background information in the form of photographs, aerials, site maps as well extensive information on the issues at hand. In the interest of brevity, the Board will restrict its comments to those items the Board determined relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[7] The Board was presented with a number of previous decisions of the Assessment Review Board. While the Board respects the decisions rendered by those Boards, it is mindful that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. This Board will therefore give limited weight to those decisions, unless the issues and evidence are shown to be timely, relevant and materially identical to the subject complaint.

**Position of the Parties**

**Complainant's Position:**

[8] The Complainant introduced the subject property by reviewing its location, general physical characteristics, the current assessment and the current assessment parameters used to arrive at the assessment amount. At issue for the complainant are four items: rental rate, parking rate, capitalization rate and building vacancy. The building is classified A minus for assessment purposes and is located in DT2.

[9] The current assessment is based on \$24 per square foot which is the rate for all buildings classified A minus (A-) in the DT1 and DT2 assessment economic zones. The complainant is requesting that \$22 per square foot is a more appropriate rate. In support of the request, the Complainant presented the rent roll for the building and a detailed office rent analysis. The analysis reviewed rental rates from different perspectives such as 12 months vs. 6 months, full floors only and outliers removed. The conclusion drawn by the complainant (C1,) that rental rates for this kind of property over a 12 month period should be \$22.09 per square foot while over a 6 month period the rate is \$21.43 per square foot. The Complainant took exception with the City's approach of using rates based on a 6 month analysis. In addition, a differentiation between DT1 and DT2 should be implemented in terms of office rental rates as the differential between the 2 zones is significant.

[10] The net rental parking rate applied to the property's assessment is based on \$475 per stall. The Complainant requested that a more appropriate rate is \$ 425. An analysis was presented which provided a summary of typical downtown parking rates, the differential between DT1 and DT2 for similar buildings. The 2013 City of Calgary Parking Study was reviewed as well as the Cresa Partners Survey on typical 2012 downtown parking rates were reviewed. Comparisons to class B and C buildings in various downtown zones were outlined and analysed for comparison purposes. The conclusion drawn by the Complainant that parking rates for A minus (A-) buildings in DT2 are about \$ 50 per stall less than the assessment rate applied by the City.

[11] The subject building assessment has a capitalization rate applied of 6%. The Complainant indicated that should a new office rental rate (\$22 per square foot) be applied that this could impact the capitalization rate. General background information was provided by means of market reports prepared by Colliers International and CB Richard Ellis. The City of Calgary's 2013 capitalization rate analysis was reviewed in detail. The Complainant's analysis (C2) showed that capitalization rates were minimally impacted by a change of net office rental rates as such the capitalization rate of 6% is acceptable.

[12] In rebuttal, the Complainant presented an analysis with regard to the capitalization rate and a number of "corrections" were outlined. This resulted in a weighted average of 5.89% for the capitalization rate. It was indicated that the corrected rate was not significant enough for the Complainant to request a change. A number of previous MGB and ARB decisions were reviewed for the Board's consideration.

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

[12] The City reviewed in general terms the obligations and requirements of a municipality as outlined in *Matters Relating To Assessment and Taxation Regulation* (MRAT) with regard to determining the assessment of a property. In particular, Section 2 Mass Appraisal and Section 3 Valuation Date were reviewed in light of the request made by the Complainant.

[13] The Respondent presented the 2013 Downtown Office Rental Rate Analysis for A minus (A-) buildings (R1, p 31-32). The analysis included 28 lease transactions in 2012. In addition, 35 lease transactions in the first half of 2012 were highlighted. The leases that the Respondent relied upon (2012) produced a mean average of \$24.78 per square foot, a medium of \$25 and a weighted mean of \$24.29 per square foot while examining the leases with a floor area of more than 10,000 square feet, the weighted mean was \$24.12 per square foot. The Respondent maintains that the analysis supports the overall \$ 24 per square foot office rental rate which was utilized in preparing the assessment. The Respondent also presented the annual ARFI (Assessment Request for Information) for the subject building .

[14] The Respondent presented the 2013 Downtown Office Monthly Parking Rates: A Class analysis. The \$475 per parking stall monthly rate for A class buildings is derived from this analysis. The summary of the analysis indicates mean and median rental rates of \$520 and \$535 for reserved stalls and \$479 and \$500 for unreserved stalls, per month (R1, p49-50). The uniform rate applied in terms of assessment for parking income shows equity between A buildings in the downtown area.

[15] The Respondent presented the 2013 Downtown Office Capitalization Rate Summary (R1, p.34) which lead to a subsequent discussion with the Complainant about the inclusion

of the parkade of the Altius Centre. It was agreed that the lack of sales affected the sample size. The respondent's analysis showed a median capitalization rate for A buildings of 5.83 % and a mean of 5.88%. When utilizing the requested office rental rates and the adjusted net operating income, the resulting capitalization rates were not significantly different.

**Board's Reasons for Decision:**

- In the evaluation of the evidence presented, the Board initially looked at the Complainant's request on a "macro" level and determined, based on the five (5) sales that occurred in the assessment period there is a range in value of \$423 to \$515 per square foot. Based on the requested value the subject property as assessed is significantly below that range.
  - The Board accepts that in accordance with the requirements of the Act and the Regulations property assessments must be based on mass appraisal principles.
  - The Board finds that the subject's assessment is below market indications and the requested assessment is below what is reasonable. In examining the evidence regarding net office rental rates the Board found that there is an upward pressure in rental values and accordingly was not convinced that the rental rate utilized for the assessment was inappropriate.
- In terms of parking rates the Board evaluated both parties evidence and noted it is based on the same source data generated by a third party (CRESA). In addition, the City was able to include additional data derived from ARFI's which supports the uniform \$475 rate per month for parking stalls in "A" building. The Board found that the monthly rate applied by the City for parking is uniformly and equitably applied in the Downtown and is based on a sound analysis.

DATED AT THE CITY OF CALGARY THIS 30<sup>th</sup> DAY OF August 2013.



**F. Wesseling**

**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 CAP Study	Complainant Disclosure
3. C3 Rebuttal	Complainant Disclosure
4. C4 Rebuttal	Complainant Disclosure
2. R1 Assessment Brief	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

Decision No.		Roll No.		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Downtown Office Building	Market value	Office rental value Parking value Capitilization rate	A and A minus buildings in different assessment zones.