



## **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:**

***Hoopp Realty Inc./Les Immeubles Hoopp Inc. (as represented by Altus Group Limited),  
COMPLAINANT***

**and**

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

**before:**

***T. Golden, PRESIDING OFFICER  
T. Livermore, BOARD MEMBER  
J. Pratt, 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: 068051507**

**LOCATION ADDRESS: 407 2 St SW**

**FILE NUMBER: 72663**

**ASSESSMENT: \$82,850,000**

This complaint was heard on the 2<sup>nd</sup> 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:

- *S. Meiklejohn*

Appeared on behalf of the Respondent:

- *H. Neumann*

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

- [1] There were no preliminary issues in this hearing.

**Property Description:**

- [2] The subject building commonly referred to as Canada Place is a B class building in the DT1 district of the downtown. The structure is a high rise office building of 200,833 square feet (sq. ft.) in area with retail uses. No parking exists on the site however there is an agreement for parking in an adjacent structure. The assessment was conducted using the Income Approach to valuation.

**Issues:**

- [3] Issue 1: Does the method used by the City, to determine the rental rate component of the assessment, result in the correct assessment? A sub issue regarding the rental rate is a determination of the leases which should make up the data set to be used in the analysis of the rental rate. The most reliable statistical tool that best reflects the data is also a sub issue.

- [4] Issue 2: Is the capitalization (cap) rate component applied to the subject parcel the correct rate? As a sub issue is the cap rate developed in an equitable manner?

- [5] Issue 3: As a conclusion is the overall assessment of the subject property correct?

**Complainant's Requested Value:** \$60,370,000

**Board's Decision:** The assessment is confirmed at \$82,850,000

- [6] **Board's Decision on Issue 1:** The method used by the City, to determine the rental rate

component of the assessment, has resulted in the correct assessment. All the leases for the assessment year are useful indicators of typical rental rates. Each statistical tool adds insight to the data set.

### **Position of the Parties**

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

[7] The Complainant presented the table of 28 leases used by the City to calculate the typical rent for the assessment (pg. 43, C-1). Each lease was signed within the assessment year and used in the initial analysis by the Respondent. The Respondent uses only the last 6 months of leases rather than the entire year of data and this yields a atypical rental rate.

[8] Since the assessment is conducted annually the data used should also be developed annually and therefore the entire year of leases should be used. Using 6 months is an arbitrary decision and yields an atypical result.

[9] The requested rental rate is based on 3 points. The analysis of the entire year of the leases available are used the result of the calculation is a mean of \$21.05 per sq. ft. and a median of \$21.00 per sq. ft., as well as a 2011 lease median of \$20.00 per sq. ft. The most recent 3 leases in the subject were between \$17.00 per sq. ft. and \$20.00 per sq. ft. The Board should also understand that the leases were for only 6 buildings and the subject is older and with some questions about parking which will lead to lower rent rates. All these factors lead to the \$20.00 requested rental rate.

[10] The Complainant mentioned that other issues with the rental rate presented to the Board in file number 72646 should also be considered.

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

[11] The Respondent presented the same table of leases as the Complainant in exhibit R- 1 pg. 90 and stated that these were all valid leases for the assessment year. All the leases were exposed to the market and represent the leasing market. The Respondent pointed out that when the full year of leases is reviewed, the data indicates an upward trend through the year. For example the weighted mean of the 2011 leases is \$20.43 per sq. ft. and the weighted mean of the 2012 leases is \$22.79 per sq. ft. The use of the last 6 months of the leases better represents the increasing market rent trend.

#### **Board's Reasons for Decision on Issue 1**

[12] The Board reviewed file number 72646 and finds that those arguments are not useful in this file. The Respondent has shown that even using the entire year's data \$20.00 per sq. ft. is not supported and the Board agrees. The mean median and weighted mean are all above the requested amount. The Board also agrees that the trend through the year is an increase in overall rental rates. This supports the assessed rental rate of \$22.00 per sq. ft.

[13] The Complainant was unclear how the \$20.00 per sq. ft. was developed using a combination of the rental rate chart, current leasing in the subject and building condition. The Board gave little weight to the Complainant's evidence.

[14] **Board's Decision on Issue 2:** The cap rate component applied to the subject parcel is the correct rate. Regarding the sub issue, the cap rate is prepared in an equitable manner.

### **Position of the Parties**

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

[15] As with file number 72646 the Complainant was of the opinion that the cap rate was incorrect for three reasons; firstly the cap rates for A class buildings were higher than B class buildings, ignoring the hierarchy of building qualities this supported by 3<sup>rd</sup> party published cap rates. The rate was inequitable between classes of buildings and the City applied the incorrect net operating income (NOI) in determining the cap rate.

[16] The traditional hierarchy of classes of buildings would suggest that an A building because of its attributes, would always carry a lower risk than B class. For example the Bow Building should not carry a risk greater than the subject. To demonstrate the error two 3<sup>rd</sup> party reports were submitted to the Board beginning on page 76 of exhibit C-1. Both Colliers International and CBRE suggest that an appropriate cap rate for 2012 would be between 6.25% and 7.25% rather than the Respondent's rate of 5%.

[17] An equity argument between classes was made by the Complainant. It was pointed out that A class buildings have a typical cap rate of 6% however the actual cap rate study presented on pg. 64 of C-1 showed a cap rate mean for A buildings sold in 2012 at 5.46% then round up to 6% by the Respondent. In the same table B class buildings in the study were rounded down from 5.07% to 5%. The Complainant suggested to be equitable B class buildings should be increased .5% as happened with A class buildings.

[18] Lastly the Complainant argued that the method the Respondent used to calculate the typical NOI was in error. The Respondent was applying the wrong NOI to the sales and the cap rate as a result was improperly calculated.

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

[19] The Respondent challenged the various assertions made by the Complainant. The hierarchy between A class and B class this year was not demonstrated in the cap rate study but noted that an income calculation includes many factors. Page 65 of R-1 demonstrates that although the cap rate hierarchy is disturbed this year, the overall values of the various classes displays the traditional hierarchy. Third party reports used to support the Complainant's position were unreliable as there were questions regarding the sources of data and there was no understanding of the methods used to determine the cap rate.

[20] Cap rates for the two classes of properties were assigned in an equitable manner as the median cap rate of A class buildings was 5.87% rounded to 6%. Cap rates for B class buildings had a median of 4.82% rounded to 5%.

[21] In terms of the correct NOI to apply, the Respondent's method ensured that the NOI applied to a sale was never more than six months from a sale date.

[22] In conclusion the Respondent pointed out that even with the three concerns with the cap

rate the Complainant could not clearly show how its requested cap rate was developed.

### **Board's Reasons for Decision on Issue 3**

[23] As In file number 72464 the Board rejected the first two points of contention presented by the Complainant. Third party reports in this case were insufficient to support an adjustment to the cap rate. The Complainant also do not indicate why a 6.25% rate was developed from the reports cap rate range of 6.25% to 7.25% other than it being the lower extreme of the range. The Board was not able to determine the source of materials used in the 3rd party reports or the methods used to develop the cap rate. The second issue being the equity of the application of the cap rate to the classes of buildings, was given little weight as the argument seems to be more about the rounding of numbers and the Respondent was able to demonstrate that the rounding exercise was reasonable and no inequity exists.

[24] The cap rate equity argument was weak as the cap rate was rounded in each case. Six statistical calculations reveal a range of rates of between 4.8% to 5.07% and a 5% cap rate was adopted for B class buildings. The same calculation for A class buildings had rates between 5.43% and 5.87% and the rate of 6% was adopted

[25] The third point regarding the application of the proper income data to the various sales, may have merit however the Board notes that three sales used in the calculation are within a period of time where there is no dispute over the method used. These sales have an average cap rate of 5.15%, supporting the Respondent's cap rate. The Board was satisfied that the requested cap rate is not supported and the discussion of the application of the NOI was not warranted.

**Board's Decision on Issue 3:** The overall assessment of the subject property is correct.

### **Position of the Parties**

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

[26] The Complainant used the requested factors in an income calculation and developed the requested assessment on pg. 33 of C-1. In the Complainant's opinion the Board could just accept a change to the rent rate lower the assessment without having to accept changes to the cap rate.

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

[27] The Respondent tested the Complainant's requested inputs in an ASR analysis using three similar buildings. The resultant ASR's were between .64 and .74 which are far below the accepted range.

**Board's Reasons for Decision on Issue 4**

[28] In the end it is the task of the Board to determine the market value of the subject property. In this decision the Board has rejected the arguments regarding the inputs to the income calculation. However when the requested changes are made the Respondent's ASR test of the request further demonstrates that the assessment is correct. The ASR results indicate that the property would be considerably under assessed. The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 28<sup>th</sup> DAY OF November 2013.



Tom Golden

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. 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.*

<b>Roll</b>	<b>Address</b>	<b>Subject</b>	<b>Issue</b>	<b>Detail</b>	<b>Sub Detail</b>
068051507	407 2 ST SW	office	income	Rent rate, cap rate	