

## **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:**

***MacBain Properties Ltd., (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:

<b>ROLL NUMBER:</b>	<b>068053909</b>
<b>LOCATION ADDRESS:</b>	<b>505 2 ST SW</b>
<b>FILE NUMBER:</b>	<b>72666</b>
<b>ASSESSMENT:</b>	<b>\$25,920,000</b>

This complaint was heard on the 28<sup>th</sup> day of Oct., 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:

- *K. Gardiner, (City of Calgary)*
- *E. Borisenko, (City of Calgary)*

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

[1] The Board was requested and agreed to carry forward the evidence and argument regarding the derivation of the capitalization rate from hearing number 72732 to this hearing.

**Property Description:**

[2] The property which is the subject of this hearing (72666) is an office building with 111,405 square feet of office space, 9,184 square feet of retail space, 1,390 square feet of storage space and 22 parking spaces. The building is classified as a Class "C" building for property assessment purposes. The market rent applied to the office space within the subject property is \$13.00 and a capitalization rate of 5.50% has been used in the calculation of the assessed value.

**Issues:** The issue in this complaint is the capitalization rate used to calculate the assessed value.

**Requested Value:** \$22,810,000 (exhibit C-1, page 27)

**Board's Decision:** The complaint is denied and the assessment is confirmed.

**Position of the Parties**

**Complainant's Position:**

[3] The Complainant pointed out to the Board that the 2013 assessment had increased to \$25,920,000 from \$12,740,000 in 2012 (exhibit C-1, page 22).

[4] The Complainant had used all of the same valuation parameters that the Respondent had used in calculating the requested assessment except for the capitalization rate which they argued should be increased from 5.5% to 6.25% (exhibit C-1, page 27).

[5] The Complainant provided a capitalization rate analysis for retail properties located on Stephen Avenue Mall, done by the City of Calgary in which they used typical income as of July 01, 2012 for three sales which occurred in latter half of 2011 (exhibit C-1, page 85).

[6] The Complainant provided market reports from Colliers International and CB Richard Ellis which indicated that capitalization rates for Class "B" buildings in downtown Calgary are significantly higher than those used by the assessor. No data was provided for Class "C" properties.

[7] The Complainant provided a copy of the capitalization rate analysis used by the Respondent to calculate the capitalization rate for Class "C" buildings in downtown Calgary. There were only two sales of Class "C" buildings in the appropriate time frame. The mean and median of this analysis were both 4.92%. (exhibit C-1 page 125)

[8] The Complainant provided a capitalization rate study using the same two sales used by the Respondent but in the case of the 2011 sale the Complainant had used the net income taken from the 2013 assessment information which has an effective date of July 01, 2012. The mean and median of this analysis were both 5.64% (exhibit C-1 page 126).

[9] 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.

[10] 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 "C" buildings also be adjusted upwards by a half point in order to be consistent and maintain equity between the different classes of office buildings.

[11] The Complainant also argued that the Respondent had adjusted the capitalization rate for Class "C" buildings upwards by a half point and requested the Board to maintain the same adjustment when considering a revision to the capitalization rate used by the Respondent.

[12] The Complainant provided a number of 2013 Composite Assessment Review Board decisions which dealt with the calculation of capitalization rates and the time frame from which the net operating income should be taken when calculating capitalization rates.

[13] In summation the Complainant requested that the Board not rely on the assessment to sale ratio analysis provided by the Respondent because it only involved two sales and did not provide a meaningful sample.

**Respondent's Position:**

[14] The Respondent provided a chart (see exhibit R-1, page 58) which compares the value estimates to the sale prices using both the Complainant's requested capitalization rate and the capitalization rate used by the assessor. The results for the two sales used in the analysis indicates that the Complainant's capitalization rate produces market value estimates that are approximately ten percent below the sale price of these two sales. The Respondent argued that these results prove that the method of calculating capitalization rates used by the Complainant is flawed. The assessment to sale price ratios produced by the application of the Respondent's

capitalization rate were 1.02 and 1.03.

[15] The Respondent provided the assessment per square foot of four Class "C" and one Class "C minus" buildings including the subject building (See exhibit R-1, page 64). The median assessment per square foot for these five buildings is \$236 per square foot. The assessment per square foot of the subject property is \$212. The sale prices per square foot of the two sales of Class "C" buildings are \$221 and \$263 per square foot.

[16] The Respondent provided a chart and a graph (exhibit R-1, page 74) showing the relative assessment per square foot for each of the various quality classes of office buildings in downtown Calgary. The chart indicated that the assessment per square foot increased as the quality class increased.

[17] With respect to the issue of increasing the capitalization rate by a half point, the Respondent testified that is not what was done. In the case of Class "C" buildings the assessor had placed more weight on the capitalization rate taken from the more recent sale of 816 7 AV SW which indicated a capitalization rate of 5.61%

**Board's Reasons for Decision:**

[18] The Board did not rely upon the capitalization rates provided by third parties. The Board had no way of knowing how these rates were arrived at, nor did the Board know if these rates were intended to be used to calculate the value of the fee simple estate.

[19] 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 capitalization rate of 6.0% was applied to Class "A" buildings (exhibit R-1, page 77). The Board was satisfied with the Respondent's explanation of why the assessor had selected a 5.5% capitalization rate for Class "C" buildings.

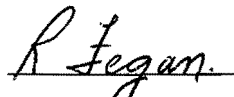
[20] The Board found that there was insufficient evidence to alter the assessment of the subject property based on a lack of equity between similar properties. The Board found that the chart on page 74 of exhibit R-1 demonstrated a logical progression of assessed values per square foot as the classification of the buildings increased.

[21] The Board agreed that the reliability of the assessment to sale price ratio (ASR) analysis provided by the Respondent would be impacted by the fact that only two sales were available for use in the analysis, however the Board found that both parties were prepared to use these same two sales as the basis for estimating the capitalization rate and hence the value for Class "C" buildings. In addition to the assessment to sale price ratio test, the Respondent had also compared the median assessment per square foot of four Class "C" and one Class "C minus" properties to the only two Class "C" sales available.

[22] 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 found that the method used by the Respondent was not inconsistent, and was reasonable given the statutory requirement for the application of a mass appraisal process.

[23] In summary the Board found that there was insufficient evidence to warrant a change to the subject property assessment.

**DATED AT THE CITY OF CALGARY THIS 21<sup>st</sup> DAY OF November 2013.**

A handwritten signature in cursive script, appearing to read "R. Fegan", written over a horizontal line.

R. Fegan

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.*

**CARB Identifier Codes**

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

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