

## **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:**

***OMERS Realty Corporation/1023825 Alberta Ltd. (as represented by Altus Group Ltd.),  
COMPLAINANT***

**and**

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

**before:**

***B. Horrocks, PRESIDING OFFICER  
J. Joseph, BOARD MEMBER  
R. Cochrane, 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>068054295</b>
<b>LOCATION ADDRESS:</b>	<b>255 5 AV SW</b>
<b>FILE NUMBER:</b>	<b>72668</b>
<b>ASSESSMENT:</b>	<b>\$382,720,000</b>

This complaint was heard on the 20th day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8

Appeared on behalf of the Complainant:

- S. Meiklejohn (Altus Group Ltd.)
- D. Hamilton (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- D. Grandbois (City of Calgary)
- D. Zhao (City of Calgary)

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

- [1] There were no concerns with the board as constituted.
- [2] Both parties have visited the site.
- [3] The parties have discussed the file.
- [4] There were no preliminary matters. The merit hearing proceeded.
- [5] The parties agreed that all evidence, argument and discussion with respect to cap rate and market net rent rate from hearing #72662 would be carried forward to this hearing.

**Property Description:**

[6] The subject property is a 1.57 acre parcel located in Economic Zone DT 1 in the downtown commercial core in SW Calgary. The site is improved with two high rise office towers, of 32 and 37 storeys, known as Bow Valley Square 3 & 4, respectively. The buildings have a typical floor plate area of 11,530 square feet (sf) and a total building area of 840,398 sf. In addition to 725,885 sf of office space, the buildings contain 58,112 sf of retail space on the main and second floors, 20,499 sf of storage space and 35,902 sf of recreational space. There are 411 parking stalls in an underground parking garage. The buildings were constructed in 1978, are connected to the "Plus 15" network and are classified as A2 quality.

[7] The 2013 assessment was prepared using the Income Approach to Value, with a typical office space rental rate of \$26.00 per square foot (psf), typical retail space rental rates of \$30.00 and \$35.00 psf, typical storage space rental rate of \$10.00 psf, recreational space rental rate of \$18.00 psf and parking at \$5,700 per stall. Vacancy and non-recoverable expense allowances were deducted. The resulting net operating income was capitalized at the rate of 6.00% to arrive at an estimate of market value for assessment purposes.

**Issues:**

[8] An assessment amount and an assessment class were identified on the Assessment Review Board Complaint form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there were three outstanding issues, namely: "office space is assessed at \$26.00 and should be no more than \$24.00", "capitalization rate is assessed at 6.00% and should be no less than 6.25%" and "the third floor office space is poorly located and needs to be assessed a lower rent of \$18.00 psf".

**Complainant's Requested Value:** \$268,560,000 (Complaint Form)  
\$342,361,000 (Hearing)

**Board's Decision:**

[9] The 2013 assessment is reduced to \$381,850,000.

**Legislative Authority, Requirements and Considerations:**

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000 Section 460.1:

- (2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection(1)(a).

MGA requires that

- 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner, apply the valuation and other standards set out in the regulations, and follow the procedures set out in the regulations

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that

- 2 An assessment of property based on market value
  - (a) must be prepared using mass appraisal,
  - (b) must be an estimate of the value of the fee simple estate in the property, and
  - (c) must reflect typical market conditions for properties similar to that property
- 4(1) The valuation standard for a parcel of land is
  - (a) market value, or
  - (b) if the parcel is used for farming operations, agricultural use value.

**Board's Decision in Respect of Each Matter or Issue:**

**Issue:** What is the market net rental rate for downtown Class A office space to be applied in the Income Approach to Value to determine the market value for assessment purposes?

**Complainant's Position:**

[10] The Complainant's Disclosure is labelled C-1(72662).

[11] The Complainant, at page 61, provided the Tenant Roll dated July 1, 2012. The Roll contains leases with start dates ranging from April 1, 1994 to May 1, 2012. The Complainant noted the net rent rates range from \$14.00 to \$45.00 psf and the weighted mean is \$23.17 psf in support of the request for an assessed rate of \$24.00 psf.

[12] The Complainant, at page 78, provided a table titled, Downtown Office Net Rental Rates - A - Old, noting there were 71 leases signed in the period July 1, 2011 to July 1, 2012 with a weighted mean lease rate of \$23.82 psf.

[13] The Complainant asserted that "typical A class rental" is 1 full floor or more. The Complainant, at page 81, revised the table to include only leases of 1 full floor or more, noting there were now 21 leases with a weighted mean lease rate of \$23.09 psf.

[14] The Complainant, based on its professional judgement, determined there were 8 leases that were outside plus or minus 10% of the weighted mean and should not be considered in the analysis, as they are outliers. The Complainant, at page 84, further revised the table by removing the outliers and noted the weighted mean lease rate was \$22.56 psf. The Complainant concluded that all of the analysis supported the requested lease rate of \$24.00 psf.

**Respondent's Position:**

[15] The Respondent's Disclosure is labelled R-1(72662).

[16] The Respondent, at page 86, provided a table titled, 2013 Downtown Office Rental Rate Analysis: A Class, noting the leases were for the period July 1, 2011 to July 1, 2012. The weighted mean lease rate for all of the leases was \$23.82 psf, while the weighted mean lease rate for 2012 leases only was \$26.09 psf, a difference of \$2.27 psf.

[17] The Respondent, at page 88, provided a table titled, 2012 Downtown Office Rental Rate Analysis: A Class, noting that in the previous year if only the last 6 months of leases were considered versus the full 12-month evaluation period, the difference in the weighted mean lease rate was only \$0.71 psf.

[18] The Respondent, at page 89, provided a graph titled, Rental Rate vs. Time: A, to demonstrate that market rental rates are rising and it is therefore appropriate to use leases closest to the evaluation date to determine the market net rent rate.

[19] The Respondent, returning to the table on page 86, selected the leases from the last 6 months of the evaluation period for analysis and determined the mean lease rate was \$26.30 psf and the weighted mean lease rate was \$26.09 psf which supported the assessed lease rate of \$26.00 psf.

[20] In addition, the Respondent noted there were 7 leases signed on July 1, 2012, the day after the end of the evaluation period, with lease rates ranging from \$27.00 to \$36.00 psf, which also support the \$26.00 psf assessed rate.

**Board's Decision With Reasons:**

[21] The Board finds the leases signed during the last 6 months of the evaluation period to be a better indicator of market rent than the full year's data. The subject is well served by the assessed rate of \$26.00 psf when the leases signed one day after the end of the evaluation period are also considered.

[22] The market net rental rate to be applied to the downtown A-class office space is \$26.00 psf.

**Issue:** What is the market net rental rate to be applied to the 16,216 sf of "poorly located" office space on the third floor?

**Complainant's Position:**

[23] The Complainant's Disclosure is labelled C-1.

[24] The Complainant, at pages 74 and 82, provided the tenant rent rolls dated October 10, 2012, noting that the lease rates range from \$13.00 to \$23.00 psf for all of the leases, excluding the areas occupied by the building managers. The Complainant submitted that the third floor office space is poorly located, is difficult to access and is not achieving market rent. In addition the child care centre is not typical in an office setting. The Complainant requested a rate of \$18.00 psf (the same rate as the recreational space) be applied.

**Respondent's Position:**

[25] The Respondent's Disclosure is labelled R-1.

[26] The Respondent argued that the office space on the third floor does not replicate the Bow Valley recreational space and should not be assessed the same rate of \$18.00 psf.

**Board's Decision With Reasons:**

[27] The Board finds the office space on the third floor is typical and should be assessed at the rate of \$26.00 psf, the same rate as the remainder of the office space in the building.

**Issue:** What is the correct assessable area?

[28] The Respondent, at page 108, provided a revised Income Approach calculation derived from the areas in the October 18 tenant roll. It was accepted that renovations were taking place and that there were a number of changes in area from the rent rolls which had been submitted to the City, earlier in the year. The Respondent noted that if there were no other parameter changes, the revised assessment would be \$381,850,000.

**Issue:** What is the capitalization (cap) rate to be applied in the Income Approach to Value, to determine the market value of the subject property for assessment purposes?

**Complainant's Position:**

[29] The Complainant's Disclosure is labelled C-1(72662).

[30] The Complainant submitted that all AA and A classified properties in the Downtown Economic Zone 1 (DT1) should be assessed using a cap rate of 6.25% as opposed to the assessed rate of 6.00%.

[31] The Complainant, at pages 99 through 109, provided Canada Cap Rate Reports from Colliers International and CB Richard Ellis to demonstrate that A class, Downtown Calgary Office space in Q2 2012, was achieving cap rates in the range of 5.50 to 6.00% and 5.75 to 6.25%, respectively.

[32] The Complainant, at page 111, provided a table titled, 2013 Downtown Office Capitalization Rate Summary, as prepared by the City of Calgary. The table identifies all of the sales of Class A, B and C quality downtown offices during the period April 13, 2011 to June 21, 2012.

[33] The Complainant, at page 113, provided a reduced table which contained just the sales for Class A buildings; noting there were 8 sales that yielded a weighted mean cap rate of 5.89%, a mean cap rate of 5.88% and a median cap rate of 5.83%.

[34] The Complainant, at page 115, provided a further reduced table which contained just the sales it considered valid for further consideration. Index 8 (Scotia Centre sale on January 26, 2012) was removed because it was considered to be a non-market sale. Index 15 (Scotia Centre sale on April 21, 2011) was removed because it was between partners and not exposed to the market. In addition, the Complainant increased the Net Operating Income (NOI) for Index 7 (Altius Centre) to account for the income from the adjacent 5-storey, above ground parking structure which was included in the sale, but not included in the City's table. The Complainant submitted that the building and parkade are different than an office with underground parking. The parkade provides parking for the building, and the operating costs for parking are recovered in the operating costs for the building. The remaining sales yielded a weighted mean cap rate of 5.75%, a mean cap rate of 5.72% and a median cap rate of 5.83%.

[35] The Complainant, at page 126, made two additional changes to the table to account for a different methodology used to calculate the NOI for Index 10 (Gulf Canada Square) and Index 14 (Scotia Centre). The Complainant submitted the City had applied 2012 typical income for sales that occurred between July 1, 2011 and December 31, 2011 and they had applied 2013 typical income for sales that occurred between January 1, 2012 and June 30, 2012. The Complainant submitted that 2012 typical income must be used for both the Gulf Canada Square sale (September 2, 2011) and the Scotia Centre sale (April 21, 2011). With the income adjusted, the remaining sales yielded a weighted mean cap rate of 6.32%, a mean cap rate of 6.10% and a median cap rate of 5.83%.

[36] The Complainant asserted that a purchaser buys the property with "leases in place" and if the leases are greater than market rent, then there is a benefit to the purchaser. The Complainant submitted that to get to fee simple interest an adjustment to the sale price is required. The Complainant calculated adjustments for all of the sale prices and produced the table on page 128, noting the weighted mean is now 6.30%, the mean is 6.12% and the median is 5.88%. The Complainant requested a cap rate of 6.25% be applied.

**Respondent's Position:**

[37] The Respondent's Disclosure is labelled R-1(72662).

[38] The Respondent, at page 67, provided a table titled, Downtown Office Sales – Calgary – City of Calgary Methodology- Class A, noting the table contains information on 8 sales that occurred in the period April 2011 to June 2012. The 8 sales yield a weighted mean cap rate of 6.00%, a mean cap rate of 5.99% and a median cap rate of 6.02%.

[39] The Respondent, at page 79, provided a table titled, The City of Calgary Method vs. Complainant's Cap Method, noting the City uses typical income parameters based on a calendar year, whereas the complainant uses typical income parameters based on the evaluation period (July 1 to June 30). The Respondent demonstrated that in a rising market, the market cap rate mean and median would be 5.91% and 5.90%, respectively. Similarly, the City Methodology would yield a mean and median cap rate of 5.92%, mirroring the market. The Complainant's methodology yields a mean cap rate of 6.17% and a median cap rate of 6.16%.

[40] The Respondent, at page 80, went through the same hypothetical case to demonstrate that in a falling market, the City methodology yields a mean and median cap rate that again mirrors the market.

[41] The Respondent, at page 92, provided a table titled, Downtown Office Capitalization Rate Summary, noting that when the sale price and NOI for the Altius Centre sale are changed to include the parkade, the Cap rate for that sale, changes from 4.90% to 4.85% which is a negligible difference. The Respondent noted the median cap rate of all A Quality Class building sales is 5.83% and the mean is 5.87%, which supports the 6.00% cap rate assessed.

**Board's Decision With Reasons:**

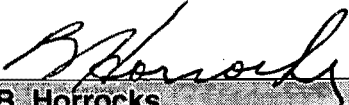
[42] The Board finds the Respondent's cap rate evidence more compelling. The Respondent utilized all of the sales and made only one adjustment, while the Complainant eliminated two sales, and adjusted NOIs on 3 sales. In the end, the Respondent's median cap rate of 5.83% and mean cap rate of 5.87%, along with the Complainant's median cap rate of 5.83% and mean cap rate of 6.10% (with an incorrect input on the sale of Scotia Centre), all support the 6.00% cap rate applied.

[43] The cap rate to be applied is confirmed at 6.00%.

**Board's Decision:**

[44] The 2013 assessment is reduced to 381,850,000 based on a minor adjustment in space allocation shown on the October 2012 tenant rent roll.

DATED AT THE CITY OF CALGARY THIS 19<sup>th</sup> DAY OF September 2013.

  
B. Horrocks  
Presiding Officer



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

<b>NO.</b>	<b>ITEM</b>
1. C1&C2(72662)	Complainant Disclosure
2. C1	Complainant Disclosure
3. R1(72662)	Respondent Disclosure
4. 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 Administrative Use Only

<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
Office	High Rise	Income Approach	Rent rate & Cap rate