

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:

Lavalin L.P. Investment Corp., (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:	067042408
LOCATION ADDRESS:	911 5 AV SW
FILE NUMBER:	72735
ASSESSMENT:	\$31,790,000

This complaint was heard on the 29 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:

- D. 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 hearings 72732 and 72623.

Property Description:

[2] The subject property is classified for assessment purposes as a Class "B minus" office, it is located in an area identified for assessment purposes as Downtown 2 (DT-2). It has a total building area of 112,453 square feet and 50 underground parking spaces (C-1 page 28). The office component has been assessed using an office rental rate of \$15.00 with a vacancy allowance of 8.25% and a capitalization rate of 5%.

Issues:

[3] The capitalization rate applied to the subject property is too low.

Requested Value: The Complainant provided two proposed revised assessments.

C-1 page 31, \$30,270,000.

C-1 page 32, \$26,490,000.

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

Position of the Parties**Complainant's Position:**

[4] The Complainant provided two separate revised assessment requests. Both of these requests used the same valuation parameters that were used by the Respondent except for the capitalization rate. One proposed a capitalization rate of 5.25% and the other proposed a capitalization rate of 6.0%.

[5] 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.

[6] The Complainant provided a capitalization rate study using five sales, three of which were classified as "B" buildings and two of which were classified as "B minus" buildings. The analysis provided three scenarios, one using the typical income taken from the midpoint of the year in which the sale took place, one using typical income from the midpoint of 2012 regardless of the sale date and one using a typical income of \$16.00 per square foot. The three different scenarios provided a total of fifteen different capitalization rate estimates which were summarized into three different conclusions depending on the net operating income that was used in the calculation.

[7] 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.

[8] 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.

[9] The Complainant separated out the two sales of Class "B minus" buildings and calculated a mean and median capitalization rate of 5.11%.

[10] 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.

Respondent's Position:

[11] The Respondent provided a capitalization rate analysis containing the sale of four Class "B" and two Class "B-" buildings. The capitalization rates in this analysis ranged from 3.84% to 5.39%. The median rate was 4.82%.

[12] The Respondent had used typical market rent taken from the year in which the sale took place.

[13] The Respondent provided a chart (exhibit R-1, page 35) 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.

[14] The Respondent provided a chart (exhibit R-1, page 37) with the 2013 assessed value of the sixteen sales used in the City's capitalization rate study and compared the 2013 assessed

value to the sale price. The median assessment to sale ratio for the sixteen sales used in the Respondent's capitalization rate analysis was 1.01.

[15] The Respondent provided the Real Net reports for two additional sales of Class "B" buildings that occurred after the July 01, 2012 effective date for assessment purposes. 520 5 AV SW sold on November 01, 2012 for \$507 per square foot and 639 5 AV SW sold on November 15, 2012 for \$407 per square foot.

Board's Reasons for Decision:

[16] 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.

[17] 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 C-1, page 95).

[18] With respect to the method used to calculate 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 using typical net operating income from a time as close as practical to the sale date did not constitute an inconsistent approach to estimating capitalization rates.

[19] The Board found that in the two instances where the 2012 typical income was used to calculate capitalization rates for 2011 sales the resulting capitalization rates were the highest in the Class "B" capitalization rate analysis (6.21% & 6.60%, exhibit C-1 page 91).

[20] The Board found that the net income used by the Respondent had been taken from the 2013 assessment information reflecting an effective date of July 01, 2012 for the 2012 sales and the net income had been taken from the 2012 assessment information reflecting an effective date of July 01, 2011 for the 2011 sales.

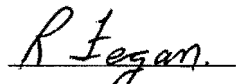
[21] While neither of these two approaches captures the typical net income as of the sale date the Board found that the Respondent's approach was reasonable given the requirement for mass appraisal and the fact that the Respondent tried to capture the net income as of the midpoint of each year and apply that to any sales that occurred during that year. Given that rental rates had been increasing, the Board found that it was reasonable to use typical market rents taken from the midpoint of the year in which the sale occurred.

[22] The Board was not able to draw any conclusion from the two post facto sales presented by the Respondent, as these buildings were reported to be Class "B" buildings and the subject is a Class "B minus" building.

[23] The standard for property assessment in Alberta is market value as defined in the Municipal Government Act. The Board found that the Respondent had provided information to test whether or not the capitalization method used by the assessor achieved assessments that were at market value. The assessment to sale ratio for the sixteen properties used in capitalization rate analysis was 1.01 (exhibit R-1, page 37)

[24] The sale price per square foot of the two Class "B minus" buildings used in the capitalization rate analysis were \$278.83 and \$375.42 per square foot (exhibit C-1, page 92). The subject property assessment is \$282.69 per square foot indicating that the subject property is not assessed in excess of 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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