

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:

HCR LP (SC Calgary 2012) Inc. C/O Canmarc Real Estate Investment Trust (as represented by Altus Group Ltd.) COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***K. Thompson, Presiding Officer
K. Farn, 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:

ROLL NUMBER:	068081009
LOCATION ADDRESS:	220 8 Av SW
FILE NUMBER:	72756
ASSESSMENT:	\$2,280,000

This complaint was heard on 21 day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- M. Cameron Agent, Altus Group Ltd.

Appeared on behalf of the Respondent:

- E. Borisenko Assessor, City Of Calgary

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

[1] The Complainant and Respondent asked that the evidence and argument from file #72588 be carried forward to this case. The Board had no issue with this request and proceeded to hear the merits of the complaint.

Property Description:

[2] The subject property, a retail/office building known as the Turner-Hicks Block, is located at 220 8 Av SW on the Stephen Avenue Mall (in the DT8 zone of the downtown core). The building was constructed in 1900, and is classified as B quality by the City of Calgary. The building is assessed as having 6,585 square feet (sf) over two stories, with storage in the basement and is sited on a parcel size of 0.07 acres. It is currently occupied by a single tenant, Riley McCormick's.

[3] The Subject property is assessed on the Income Approach to Value with a main floor retail space of 2,819 sf at a typical rate of \$36.00 per square foot (psf), office upper of 1,472 sf at a rate of \$18.00 psf, 2,294 sf of storage at \$5.00 psf. The capitalization rate is 5.50%. The 2013 assessment is \$2,280,000.

Issues:

The subject building would better reflect the market value at a rate of \$26.00 psf for the retail main space in this building.

Complainant's Requested Value: \$1,810,000.

Board's Decision:

[4] The assessment is confirmed at \$2,280,000.

Legislative Authority, Requirements and Considerations:

[5] The *Municipal Government Act*, 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 460 (1)(a).

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

[6] The Complainant stated that the typical rental rates for the retail main area that were applied to the subject property do not reflect recent leasing activity of typical and similar Stephen Av properties. The main floor rental rate should be at \$26.00 psf.

[7] The Complainant provided photographs, maps and assessment information for the subject property [pg 11-20, C1].

[8] The Complainant provided a chart which included two comparable property's retail main rental rates, along with photographs [pg 23-25, C1]. The retail main rental rates were \$31.00 psf for 3,200 sf in the Ashdown building at 110 8 Av SW (a July 2010 lease with a 10 year term), the second for \$21.00 psf for 1,100 sf in the Ward Block at 105 8 Av SW (a June 2011 lease for a three year term). The mean and median of these two rental rates is \$26.00 psf.

Respondent's Position:

[9] The Respondent stated that historically all of the properties on Stephen Av are assessed with one rental rate for the main floor regardless of use and a second rate for the upper floors (different rates depending if it is retail or office) and one rate for storage. All other typical factors in this zone are applied to all properties, regardless of class.

[10] The Respondent also submitted the subject property rent roll showing a 2011 lease renewal for \$30.00 psf rate [pg 10-13, R1].

[11] The Respondent submitted a number of Board Decisions including the 2012 decision for the subject property showing it had been confirmed.

[12] With respect to the Complainant's analysis of the main floor rental rates, the Respondent stated that the City had used both of the leases in the Complainant's analysis in their rental rate analysis, however had included other leases as well. The Respondent stated that the Ward Block building was somewhat atypical as it is the only property on Stephen Av that contains multifamily on the second and third floors and had suffered from the effects of the construction of the Hotel Le Germain located behind it. This may have resulted in a lower rental rate. The 2011 Complainant's ARB submission for this property was included to show evidence of this disruption and damages [pg 14-16, R1].

[13] The Respondent presented a chart with 34 equity comparables on Stephen Av [pg 18, R1].

[14] The Respondent stated that the City had enough rental information to derive specific rental rates for retail on the main [pg 19, R1]. The Respondent provided a chart with nine

leases for retail main with a median of \$45.00 psf. The City also analyzed the retail main without the three rents from the Alberta Block as these showed a much higher rental rate and got a median rental rate of \$35.50 psf. Three additional *post facto* leases were provided to show trends.

[15] Six Stephen Av sales were provided by the Respondent to show a range of \$321 psf to \$536 , a median \$457 psf and an assessment to sale ratio of 1.01 overall [pg 20, R1]. A map, photos, titles, RealNet info, corporate searches and other documents on these sales was included in the evidence [pg 2199-116, R1].

[16] A number of Board Decisions were included for the Boards consideration [pg 101-177, R1]. A number of withdrawals on the business tax Complaints were also included [pg 178-181, R1].

Complainant Rebuttal:

[17] In the Rebuttal document, the Complainant included two leases that it believes are valid comparisons to the subject property and stated that those are the only leases that should have been used to determine typical retail rates for this type of building in this location [pg 4, C2]. These two leases are the Ashdown building at a \$31.00 rate psf and the Ward Block at \$21.00 psf for a median value of \$26.00 psf. With regard to the City's comments that the Ward Block rents had suffered from negative external influences, the Complainant stated that no evidence had been submitted to support this claim. The Complainant entered the Assessment Summaries for both the Ward Block and the Le Germain Hotel to show no adjustments had been made for negative construction influences. The Complainant also noted the year of construction on the Le Germain Hotel was 2009, well before the Ward Block lease agreement was signed. The 2011 CARB decision for the Ward Block was also included [pg 5-15, C2].

[18] The Complainant included evidence of rent rolls where space had incurred significant renovations, along with their building permits and rent roll. [pg 19-26, C2].

[19] With respect to the Respondent's equity chart the Complainant recreated the chart and added a column to show eleven of these 34 properties are multi floor and 1 tenant occupying 100% of the building [pg 28, C2].

[20] The Complainant provided a rebuttal to 2013 Rental Analysis Stephen Av DT8 [pg 41, C2] and provided a chart with the City's nine leases but reanalyzed the results for those properties that are considered to be typical for the Stephens Avenue. The Complainant excluded the properties that had the advantage of having access to Scotia Mall and those of the Alberta Block as this is a unique property called Fashion Central and almost a small mall. These leaves three leases that would truly represent those properties on Stephen Av with a mean of \$32.33 psf and median of \$31.00 psf. Photographs were provided for Scotia Centre mall and Fashion Central to accentuate why these would not be typical properties to include in the rental study.

[21] The Complainant included several Board Decisions for the Boards consideration.

Board's Reasons for Decision:

[22] The Board reviewed all the evidence presented by both the Complainant and Respondent. The Board notes that the nature of the submissions dictate that in some instances certain evidence will be deemed more relevant than others so the Board will restrict its'

comments to the evidence it deemed relevant. It must be noted as well that while the Board pays heed to previous Board Decisions, it is not bound by their decisions. The Board must decide this case based on the evidence and argument before it.

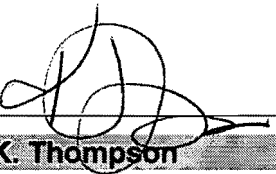
[23] The Board reviewed all of the lease information from both the Complainant and Respondent's rental analysis and summarized:

- 1) The Respondent presented nine leases for the analysis of the main floor typical rental rate. It was generally agreed that three of these leases were not similar enough to be used for the analysis of rental rates for the subject property. The Board notes that the remaining six leases included the two leases presented by the Complainant and support the rental rate of \$36.00 psf for the main floor retail. The Board reviewed the four properties not used in the Complainant's analysis taking heed of the comparability concerns outlined by the Complainant. The Board was not convinced that there was sufficient evidence to show these properties should be excluded from the analysis. The Board finds the rental rate of \$36.00 psf is appropriate for the main floor retail space.

[24] The Board noted that the subject's own 2011 lease renewal exceeds the mean and median suggested by the Complainant's analysis and neither party presented any evidence to suggest that the subject was anything but a typical property for this quality category.

[25] The Board finds the Complainant has not met the onus of proof and that the Respondent's rental rates are a reasonable representation of typical market rates and have been equitably applied and therefore confirms the rental rates for this property.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF November 2013.


K. Thompson

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. 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.*

Property Type	Property Sub-Type	Issue	Sub issue
Retail	Stand alone	Income approach	Net Market Rent/lease rates