



## 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:

***582276 Alberta Inc. (as represented by Altus Group Limited), COMPLAINANT***

and

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

before:

***I. Weleschuk, PRESIDING OFFICER  
R. Deschaine, BOARD MEMBER  
B. Jerchel, 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>156118804</b>
<b>LOCATION ADDRESS:</b>	<b>279 Midpark Way SE</b>
<b>FILE NUMBER:</b>	<b>72951</b>
<b>ASSESSMENT:</b>	<b>\$7,460,000</b>

This complaint was heard on 17<sup>th</sup> day of September, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- D. Chabot

Appeared on behalf of the Respondent:

- M. Ryan
- L. Dunbar-Proctor

**Procedural or Jurisdictional Matters:**

- [1] The Board noted the file includes a completed copy of the Assessment Review Board Complaint form and an Assessment Complaints Agent Authorization form.
- [2] Neither party objected to the members of the Board, as introduced, hearing the evidence and making a decision regarding this assessment complaint.
- [3] Both parties requested that the evidence, questions, answers and argument presented in Complaint File 73680 be carried forward to this hearing. The Board agreed.

**Preliminary Issues:**

- [4] At the commencement of the hearing, the Complainant stated that the Respondent's evidence package was disclosed late, and asked that the Board not consider the Respondent's evidence. The Respondent acknowledged that the evidence package was provided after the disclosure period, apparently due to a clerical error.
- [5] The Board notes Section 8(2) of Matters Related to Assessment Complaints Regulation (MRAC) sets out the disclosure requirements for a complaint before a Composite Assessment Review Board. Section 9(2) of MRAC states that "...the Board must not hear any evidence that has not been disclosed in accordance with section 8." The direction offered in Section 9(2) is clear, and does not allow for any discretion to be applied by the Board. The Respondent acknowledges that their evidence was not disclosed within the time prescribed by Section 8(2) of MRAC. The Board concluded that the Respondent's evidence will not be considered by the Board. The Respondent may question the evidence presented by the Complainant and may present a closing statement. This was agreeable to both parties. The hearing proceeded on this basis.

**Property Description:**

- [6] The subject property is a multi-tenant low-rise office building located in the Mindapore District, east of Macleod Trail, with access via Midpark Way SE. The property has a total of 34,345 square feet (SF) of assessable office area, with all surface parking. The property is designated as B Quality office, constructed in 1981. The 2013 assessment is \$7,460,000 calculated using the income approach based on a rental rate of \$16/SF, vacancy allowance of 8%, operating costs of \$12.50/SF and capitalization rate of 6.75%.

**Issues:**

- [7] The parties presented evidence and argument on a number of topics. This Decision will address only the evidence and argument the Board considers relevant to the issues. The Complainant disputed the quantum of the 2013 assessment and raised the following issue.
1. What is the correct capitalization rate for assessment purposes?

**Complainant's Requested Value:**

\$6,940,000

**Board's Decision:**

- [8] The Board reduces the 2013 Assessment to \$6,940,000.

**Legislative Authority:**

- [9] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

**Issue 1: What is the correct capitalization rate for assessment purposes?****Complainant's Position:**

- [10] The Complainant's position is that the Suburban B Class Office capitalization rate study prepared by the City for the subject property is apparently skewed with the inclusion of newer buildings in the data set (page 42-43, Exhibit C2). The Complainant argued that if buildings of a similar age as the subject are used, the capitalization rate is 7.25%, not the 6.75% used by the City in its 2013 assessment. This is demonstrated by selecting four of the older, non A Class properties taken from the City data set (page 43, Exhibit C2).
- [11] The Complainant presented a list of B Class suburban offices showing that only 8.8% of the properties listed (page 54, Exhibit C2) were constructed after 1995. Hence, the majority of the population of B Class suburban offices are of an older vintage and assessment factors should be calculated using pre-1995 year of construction properties to better reflect the "typical" factors for this category of properties.
- [12] The Complainant presented its capitalization rate study, consisting of the three B Quality and one C Quality office buildings used by the City, with a year of construction ranging from 1969 to 1981 in Exhibit C2 (page 43 with supporting documents following) to support the requested capitalization rate of 7.25%. The results of the study are also presented on page 23, Exhibit C1. The capitalization rates range from 6.69-9.52%, with a median of 7.33% and mean of 7.72%.

**Respondent's Position:**

- [13] The Respondent argued that the City's capitalization rate reflected the typical capitalization rate for B Class office buildings.
- [14] In argument, the Respondent presented a package of a number of Board Decisions related to capitalization rate, supporting the City's rates.

**Findings of the Board on this Issue**

- [15] The Board acknowledges the Complainant's evidence regarding the age of the majority of the B Class suburban office population, and that it may be appropriate to consider year of construction in deriving typical data for older (pre-1995) B Class suburban offices. The Board accepts this argument, given that no evidence was presented by the Respondent to indicate otherwise.
- [16] The Board was only presented with evidence supporting a capitalization rate of 7.25%, therefore concludes that this is the appropriate capitalization rate for the subject property for the 2013 assessment. The Board applies this capitalization rate and concludes the correct assessment for 2013 is \$6,940,000.

- [17] In support of this conclusion, the Board notes that the assessment of \$6,940,000 (calculated using a 7.25% capitalization rate) results in an assessed value per square foot of \$201.86. The 2013 assessment of \$7,460,000 results in an assessed value per square foot of \$217.21. The capitalization rate study presented by the Complainant includes four properties with sale prices that range from \$124.51/SF to \$187.04/SF (not time adjusted). Both values are beyond the upper value of the range, with the valued concluded by the Board being closer to the upper range of the comparable properties. Equity was not raised as an issue by either party.

**Board's Reasons for Its Decision**

- [18] The Board reduces the 2013 assessment to \$6,940,000 based on changing the capitalization rate from 6.75% to 7.25% in the income approach 2013 assessment calculation. The Board notes that the Respondent did not present any evidence due to late disclosure.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF October 2013.



**Ivan Weleschuk**  
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. C2	Complainant Disclosure – Capitalization Rate Study

*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.*

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<b>Subject</b>	<b>Type</b>	<b>Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Office	Suburban Low rise	Capitalization rate	Disclosure