

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

Atrium VII 340 Midpark Way Gp. Ltd.
(as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER
R. Cochrane, BOARD MEMBER
D. Morice, 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: 156141905

LOCATION ADDRESS: 340 Midpark Wy SE

FILE NUMBER: 73681

ASSESSMENT: \$26,300,000

This complaint was heard July 16, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *D. Chabot, Altus Group*

Appeared on behalf of the Respondent:

- *M. Ryan, City of Calgary Assessor*
- *L. Dunbar-Proctor, City of Calgary Assessor*

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

[1] There were no procedural or jurisdictional matters.

Property Description:

[2] The subject property has been assessed as a 100,808 square foot (sf) "A-" class suburban office on 5.66 acres (A) located at 340 Midpark Wy SE in the community of Midnapore.

Issues:

[3] Is the subject property's vacancy atypically high? Should the assessment reflect chronic vacancy?

Complainant's Requested Value: \$24,330,000.

Board's Decision:

[4] The Board confirms the assessment at \$26,300,000.

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).

For the purposes of this hearing, the CARB will consider MGA Section 293(1)

In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

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.

and MRAT Section 4(1), which states that

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.

Position of the Parties

Complainant's Position:

[5] The Complainant, D. Chabot, Altus Group argued that the subject property had a consistently higher than typical vacancy rate. For the 2012 assessment year, the vacancy rate was 8.00% as compared to the 4.00% typical rate.

[6] Using the Assessment Requests for Information (ARFIs) submitted to the City of Calgary, the Complainant demonstrated that the vacancy rates were higher over a sustained period of time:

	July 2010	Dec 2010	May 2011	July 2012	Dec 2012
Vacant space	3,092 sf	6,559 sf	14,924 sf	8,216 sf	13,822 sf
Vacancy Rate	3.03%	6.43%	14.64%	8.06%	13.56%

[7] D. Chabot asked for an increase of vacancy rate for the current year to 8.00%, resulting in an assessment of \$24,330,000.

Respondent's Position:

[8] The Respondent, M. Ryan, City of Calgary Assessor provided a table which showed Typical Vacancy for 2011, 2012 and 2013 at 10%, 8% and 4% respectively. He argued that the subject property vacancy rates were within the parameters of the assessed rates.

[9] The Respondent also provided the SE Calgary Suburban Office ("A" quality) vacancy rates, which showed many buildings were at 0% vacancy, with an average rate of 3.36% (assessment rate: 4.00%). (R1 p23)

[10] M. Ryan argued that Mass Assessment requires that a typical rate be calculated and

used. He suggested that deficiencies which could cause chronic vacancy could be addressed through classification and other means. On questioning, he stated that the subject property classification was not adjusted for a deficiency that resulted in chronic vacancy.

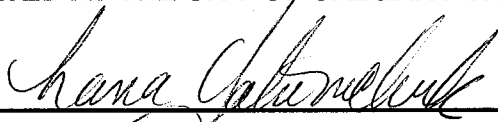
Board's Reasons for Decision:

[11] The Board studied the details available through the compiled tables as well as in the ARFIs and assessment studies. The Board decided the current assessment is supported by the available information.

[12] The Board was given no evidence to demonstrate that there was a deficiency in the subject building to cause chronic vacancy, therefore could find no reason for adjusting class or making any other adjustments to the assessment.

[13] The Board confirms the City of Calgary assessment.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF August 2013.



Lana Yakimchuk
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.*

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Office	Low Rise	Income Approach	Vacancy Rate