



## **Calgary Assessment Review Board**

### **DECISION WITH REASONS**

In the matter of the complaint against the 2014 property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***534 Capital Corp., COMPLAINANT  
(as represented by Altus Group)***

and

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

before:

***I. Weleschuk, PRESIDING OFFICER  
R. Cochrane, BOARD MEMBER  
J. Joseph, 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 2014 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>201561214</b>
<b>LOCATION ADDRESS:</b>	<b>534 17 Avenue SW</b>
<b>FILE NUMBER:</b>	<b>74259</b>
<b>ASSESSMENT:</b>	<b>\$9,290,000</b>

This complaint was heard on 6<sup>th</sup> day of August, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *D. Chabot, Agent – Altus Group.*

Appeared on behalf of the Respondent:

- *S. Gill, Assessor – City of Calgary*

**Procedural or Jurisdictional Matters:**

[1] Neither party objected to the Board as constituted to hear and decide on this matter.

**Property Description:**

[2] The subject property is located at 534 17 Avenue SW, in the Beltline (BL7) District. The 0.29 acre property consists of one building with the main level occupied by a pub/restaurant, and three levels of office space. There are 25 underground parking stalls and twelve surface parking stalls on the property. The building was constructed in 1976 with a total of 24,965 square feet (SF) on the four levels and is classified as a B Quality Class Beltline Office building for assessment purposes. The property is zoned Commercial-Corridor 1 (C-COR 1).

[3] The 2014 property assessment is calculated using the Income Approach. The net operating income (NOI) of \$567,568 is divided by the capitalization rate of 6.00%, resulting in an assessment of \$9,290,000 (rounded). The specific factors used to prepare the assessment for this B Quality Beltline BL7 Office property are presented in the table below.

Sub-components	Area	Rental Rate (\$)	Vacancy Rate %	Operating Cost (\$/SF)	Non-Recoverable %
Office	20,105 SF	17.50/SF	8.00	13.00	1.00
Restaurant	4,860 SF	40.00/SF	8.00	12.00	1.00
Surface Parking	12 stalls	1,980/stall	2.00	0.00	1.00
Underground Parking	25 stalls	2,580/stall	2.00	0.00	1.00

**Issues:**

- [4] The Complainant stated that the 2014 Assessment is incorrect for the following reasons:
- The capitalization rate of 6.00% is not correct. The correct capitalization rate for the subject BL7 Class C office building is 6.50%.
  - The office rental rate of \$17.50/SF is not correct. The correct office rental rate for this property is \$15.50/SF.
  - The parking rental rates are incorrect. The correct parking rental rate is \$1,560 for a surface stall and \$1,800 for an underground stall.

**Complainant's Requested Value:**                      **\$7,640,000**

**Board's Decision:**

- [5] The 2014 Property Assessment is reduced to \$8,580,000.

**Legislative Authority, Requirements and Considerations:**

[6] 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.

[7] The Board notes that the words "fair" and "equitable" are not defined in the Act or its Regulations. Equitable is defined in Black's Law Dictionary (Seventh Edition, West Group, St. Paul, Minnesota, 1999) as "just, conformable to principles of justice and right". For the purpose of this decision, the Board considers an assessment that reflects market value to be "fair and equitable" as the taxpayer is being assessed in accordance with the assessment standard applied to all properties in that property category.

**Issue 1: What is the correct capitalization rate for subject B Quality BL7 property?****Complainant's Position:**

[8] The Complainant's capitalization rate analysis is presented on page 17, Exhibit C1. This analysis consists of five sales that are common with those used by the Respondent in its capitalization rate analysis (page 34, Exhibit R1). The Complainant stated that the median of these five sales, using the City's calculated capitalization rate shows a median of 6.39%. The Complainant also presented its analysis using its approach (forward looking rental rates) to deriving the Net Operating Income and stated that their analysis also results in a median capitalization rate of 6.39%. Therefore, the details as to how the capitalization rate is calculated is not material to this hearing, as both result in the same capitalization rate.

[9] The Complainant in rebuttal stated that the sale located at 1301 10 Av SW (included in the Respondent's capitalization rate analysis) is not used in its analysis because the sale is not considered typical of Beltline office properties. This sale property is a two storey building constructed in 1910 with a total of 9,705 SF, therefore much older and smaller than the subject. The purchase occurred with 100% financing, likely because the purchaser intended on occupying almost half of the space. For these reasons, the sale is not typical of investment grade office buildings in the Beltline purchased for their income potential.

**Respondent's Position:**

[10] The Respondent presented its capitalization rate analysis (page 34, Exhibit R1) using six sales (five common with the Complainant's analysis), which results in a capitalization rate for B Class Office properties of 6.00%.

[11] The Respondent argued that the sale located at 1301 10 Av SW was a brokered transaction and meets the test of a market sale (willing seller and willing purchaser). Parties who intend to occupy some or all of the property they purchase are part of the market and don't pay more than they have to for a property. There is no evidence that this sale had any unusual motivation on the part of the purchaser. The property was financed by an established financial entity, active in the market.

**Findings of the Board on this Issue:**

[12] Each party presented its capitalization rate analysis with five sales common to both parties.

[13] The Complainant presented its analysis using the capitalization rate analysis used by the Respondent as well as its own (forward looking) methodology, but the resulting median capitalization rate is the same. The Board finds that the specific methodology used to calculate the capitalization rate is not an issue before this hearing.

[14] The Board notes that the sale located at 1301 10 Av SW is a property that is smaller in lot size and building size than the subject and most other properties in the subject area, and is a much older building than most in the area. For these reasons, the Board finds that this sale is not typical compared to most other properties in the Beltline area, and is therefore excluded from the analysis. While the Complainant raised some issues regarding the financing of this property not being "typical", the Board did not hear sufficient evidence to determine if this was or was not the case.

[15] The capitalization rate using the five sales common to both analyses results in a median rate of 6.39%. The Board finds that the Complainant's requested capitalization rate of 6.5% is correct.

### **Issue 2: What is the correct office rental rate for the subject B Quality BL7 property?**

#### **Complainant's Position:**

[16] The Complainant took the position that the office rental rate must be determined using lease rates from properties located in BL7. Five lease comparables were presented from two buildings located in BL7 (page 17, Exhibit C1) with a weighted average of \$15.20/SF. These leases were taken from the leasing information provided by the City. The Complainant argued that these leases are the best indication of the market lease rate for the subject, as they are located very close to the subject property.

[17] The Complainant presented a previous Board decision regarding a property in another area of the City of Calgary in which only four lease comparables were used by the Board to determine a lease rate, to support the position that while five leases is not a large number, it is a sufficient sample size to demonstrate the market lease rate.

[18] In rebuttal, the Complainant arrayed the City's Beltline leasing information by Beltline Area to demonstrate that including FS1 with BL6 and BL7 increases the rental rate (page 64-68, Exhibit C2).

#### **Respondent's Position:**

[19] The Respondent presented its 2014 BL6-7 and FS1 Office B Rental Rates (page 25, Exhibit R1) to support the office rental rate of \$17.50/SF used to prepare the 2014 Assessment. The analysis includes twenty lease comparables from office in BL6 and BL7 (straddling 17 Ave SW) and FS1 (straddling 4<sup>th</sup> Street SW). The Respondent argued that the nature and character of these areas are very similar, being a mix of main level retail/restaurant and upper level office adjacent to a main thoroughfare.

#### **Findings of the Board on this Issue:**

[20] The Board notes that BL7 is a very small area with very limited leasing information. The Respondent did not provide any evidence to demonstrate that the BL7 area was unique from other areas that straddle 17 Ave SW or 4<sup>th</sup> St SW, specifically the BL6 and FS1 zones.

[21] The Board prefers the leasing analysis presented by the Respondent. This analysis consists of a larger set of comparables and a number of recent (2013) leases, therefore is a better reflection of the market as of the valuation date (July 1, 2013).

### **Issue 3: What are the correct surface and underground parking stall rental rates?**

#### **Complainant's Position:**

[22] The Complainant took the position that parking lease comparables only from BL7 should be considered in deriving the rental rate for surface and underground parking. One lease comparable was provided to support the requested rental rate of \$1560 for a surface parking stall (\$130/month) and one lease comparable was provided to support the requested rental rate of \$1800 for an underground parking stall (\$150/month) (page 38, Exhibit C1).

#### **Respondent's Position:**

[23] The Respondent presented its 2014 Beltline Parking Analysis (page 158-160, Exhibit R1). This analysis results in surface and underground parking stall rental rates for the BL3 area, the BL4 area and the rest of the Beltline. The rental rate applied to BL7 (and the rest of the Beltline areas except BL3 and BL4) is \$1980 per surface stall (\$165/month) and \$2580 per underground stall (\$215/month). The Respondent stated that their analysis indicated that parking rates in BL3 and BL4, being closer to the downtown core, were different from the rest of the Beltline area. The rest of the Beltline area had a similar range of parking rates, therefore the remainder of the Beltline is considered as one area assessed at the same parking rates.

[24] The detailed parking lease information for the subject was presented by the Complainant on page 43-44, Exhibit C1. The Respondent stated that the parking lease information from the subject property was not included in the 2014 Beltline Parking Analysis because the information (Assessment Request for Information) was received by the City after the analysis was completed.

#### **Findings of the Board on this Issue:**

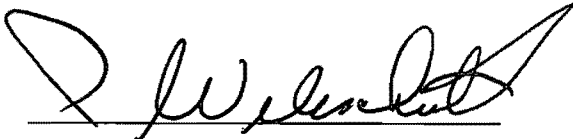
[25] As with the consideration of office rental rate, the Board is not persuaded that only parking lease rates from BL7 need be considered to derive parking rates for the subject property. The Complainant presented only one lease comparable to support each of their requested surface and underground parking rates.

[26] The Board prefers the Respondent's parking lease rate analysis, as it consists of a larger number of leases, therefore is a better reflection of the market for parking stall rental rates. The Board also notes that the subject property is receiving a rental rate of \$150/month for surface parking stalls and \$200/month for underground parking stalls. The actual rates support the typical rates derived by the Respondent.

**Board's Reasons for Decision:**

[27] The 2014 Property Assessment is reduced to \$8,580,000. This reduction is based on the Board finding that the capitalization rate is 6.50% rather than the 6.00% used to calculate the 2014 Assessment. The office rental rate and surface and underground parking stall rental rates are confirmed.

DATED AT THE CITY OF CALGARY THIS 14 DAY OF August 2014.



I. 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. R1	Respondent Disclosure
3.C2	Complainant Rebuttal 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 MGB Administrative Use Only**

<b>Subject</b>	<b>Type</b>	<b>Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Beltline Office	B Class BL7	Capitalization Rate	Rental Rate -- office Rental Rate - parking