



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:

PETROWEST PLAZA INC.,
(represented by Altus Group), COMPLAINANT
and

The City Of Calgary, RESPONDENT

before:

M. CHILIBECK, PRESIDING OFFICER
D. MORICE, BOARD MEMBER
R. KODAK, 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:

ROLL NUMBER: 067125609

LOCATION ADDRESS: 1210 - 8 ST SW

FILE NUMBER: 74273

ASSESSMENT: \$12,070,000.

This complaint was heard by the Composite Assessment Review Board (Board) on 23rd day of July, 2014 in Boardroom 3 on Floor Number 4 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- *D. Chabot, Agent of Altus Group*

Appeared on behalf of the Respondent:

- *R. Ford, Property Assessor of the City of Calgary*

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

- [1] Neither party raised any objections to any member of the Board hearing the subject complaint.
- [2] Neither party raised any procedural or jurisdictional matters.

Preliminary Matter(s):

- [3] At the outset of the hearing, both parties agreed to remove the following pages from the respective disclosures.
 - a) Pages 3 to 236 of Exhibit C2
 - b) Pages 298 to 328 of Exhibit C2
 - c) Pages 154 to 161 of Exhibit R1

Property Description:

- [4] The subject property is an improved parcel of commercial land with 11,113 square feet (sq. ft.), designated City Centre Commercial Corridor district with a low-rise quality B building with 37,188 sq. ft. constructed in 1981.

Issues:

- [5] The Complainant identified the matter of the assessment amount under complaint on the complaint form and attached a schedule listing several reasons (grounds) for the complaint. At the outset of the hearing the Complainant identified the following issues:
 - 1. The subject property should be assessed at a capitalization rate (cap rate) of 6.5% rather than 6.0%.

Complainant's Requested Value: \$11,140,000.

Board's Decision:

[6] The Board confirmed the assessment at **\$12,070,000.**

Legislative Authority, Requirements and Considerations:

[7] The Composite Assessment Review Board (CARB) derives its authority from Part 11 of the Act:

S.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).

[8] For purposes of the hearing, the CARB will consider Part 9, Division of the Act:

S.293(1) In preparing the 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.

[9] The Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in section 293(1)(b) of the Act. The CARB consideration will be guided by MRAT, Part 1, Standards of Assessment, Mass Appraisal:

S.2 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.

Assessment Background:

[10] The subject property is located in market area of beltline 4 (BL4) and assessed utilizing the capitalized income method with a cap rate of 6.0%.

Position of the Parties

1. Capitalization Rate

Complainant's Position:

[11] A capitalization rate analysis of five properties in common with the Respondent's six sales, which sold between December, 2011 and March, 2013, was provided using the Respondent's typical net operating income (NOI) values and a corresponding analysis using revised NOI values for two sales. The median cap rate for the five sales was calculated at 6.39% for both analysis and the median cap rate for the two sales closest to the valuation date was calculated at 6.45%. The Complainant argued this supports their claim of 6.50%.

[12] The Complainant argued that the Respondent is not consistent in their derivation of the cap rate and the application of it in making assessments. It was alleged that the Respondent used dated income in their 2014 cap rate analysis and therefore the NOI was revised for the two sales.

[13] The Complainant referenced two Calgary CARB decisions, 70518/P-2013 and 72724/P-2013, regarding the principle of consistency on derivation of cap rates and application of cap rate factors in determining an assessment and the principle of the "forward-looking valuation parameter" or the "retrospective valuation parameter".

[14] In rebuttal, the Complainant drew the Board's attention to one of the six sales, 1301-10 AV SW, used by the Respondent in determining the cap rate of 6% and argued this sale should not be used in the analysis because of a-typical financing. The property sold for \$2,500,000 in December, 2012 and the purchaser obtained financing for 100% of the purchase price (C2cP238) which is not a typical form of financing; typically an "institutional commercial mortgage program assumes that a 35% down payment comes from the client acquiring the asset". Therefore the sale was not used by the Complainant in their cap rate analysis.

Respondent's Position:

[15] The Respondent provided their cap rate analysis of six sales of quality/class B properties showing the median rate of 6.03% and the average rate of 5.82% in support of the assessed rate of 6.00% (R1P22).

[16] The analysis does not use actual NOIs, typical NOI for the respective year of sale is used to determine the cap rate. Sales occurring in the calendar year 2012 are analysed using the income parameters developed for the July, 2012 valuation date and sales occurring in the calendar year 2013 are analysed using the income parameters developed for the July, 2013 valuation date.

[17] The Respondent drew the Board's attention to the sale at 906-12 AV SW and asserted the sale is not-at-arms-length. The sale was authorized by an individual (director) who was found guilty of fraud by the Alberta Securities Commission in February, 2014 and the purchaser was a defendant in the Statement of Claim (R1P12). The removal of the sale from the analysis does not change the outcome of the analysis.

[18] In summary, the Respondent made reference to three Calgary CARB decisions, 75236P-2004, 76688P-2014 and 74273P201, regarding cap rate analysis methodology.

Board's Reasons For Decision

[19] The Board accepts the removal of the sale at 1301-10 AV SW because of the a-typical financing which may have influenced the purchase price. Also, the Board notes that of the Respondent's six sales, it has the lowest cap rate of 4.67%.

[20] The Board accepts the removal of the sale at 906-12 AV SW because of the fraud perpetrated by the vendor and Statement of Claim against the purchaser. Also, the Board notes that of the sales presented by both the Complainant and the Respondent, it has the highest cap rate.

[21] The cap rates for the four remaining sales range from 4.83% to 6.51% for "City Used NOI" and "Revised NOI" which the Board finds support the assessed cap rate of 6%. The Board placed greater weight on the cap rate derivation using the "City Used NOI" than on the "Revised NOI" because the Complainant used the 2013 assessment NOI for the sale of 1520-4 ST SW in 1-Dec-11. The Board finds that the 2012 NOI should be used to be consistent with the methodology of the Respondent and most often used by the Complainant, in three of the four sales.

[22] The Board finds the median cap rate to be 6.03% and the mean to be 5.85% for the four sales using the "City NOI". This supports the assessed cap rate of 6.0%.

[23] Based on the foregoing reasons, the Board's decision is to confirm the assessment.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF AUGUST 2014.

A handwritten signature in black ink, appearing to read "M. Chilibeck", is written over a horizontal line.

M. CHILIBECK

Presiding Officer

APPENDIX “A”

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's Disclosure
3. C2a	Complainant's Disclosure
4. C2b	Complainant's Disclosure
5. C2c	Complainant's 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. 74273P-2014			Roll No. 067125609	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Office	Low-Rise	Income Method	Cap Rate

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