



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:

Homer Investments Inc. (Represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, PRESIDING OFFICER
R. Cochrane, BOARD MEMBER
D. Julien, 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:	201029600
LOCATION ADDRESS:	1601 – 9 Avenue SE, Calgary AB
FILE NUMBER:	74425
ASSESSMENT:	\$20,760,000

This complaint was heard by a Composite Assessment Review Board (CARB) on the 3rd day of September, 2014 in Boardroom 5 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- B. Neeson Agent, Altus Group

Appeared on behalf of the Respondent:

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

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

[1] Pursuant to legislation regarding assessment complaints and assessment review board responsibility, the CARB reviewed the complaint file and determined that the complaint form and an agent authorization form were appropriately filed.

[2] One of the issues in this complaint was the suburban office vacancy allowance. Both parties had presented evidence, testimony and argument on the matter during the hearing for File 75499 and it was requested by both parties that all testimony, argument, questions and answers relating to vacancy in 75499 be carried forward to this hearing. The vacancy rate evidence was disclosed separately for this file so there was no request to carry forward any documents. The CARB agreed with the requests of the parties.

[3] There were no jurisdictional matters to be decided.

Property Description:

[4] The property that is the subject of this assessment complaint is a suburban office building located near the southeast boundary of the Inglewood community. Built in 2009, the building contains a total area of 59,105 square feet spread over four floors. The building occupies a 1.63 acre commercial site. There is parking for 87 vehicles around the building. The building was constructed partially to accommodate the owner's graphics/printing business and a section of the main floor has a ceiling height of 22 feet to accommodate the processing operations of the business. The graphics/printing business also occupies office space on the ground and second floors. The top two floors are leased to a tenant.

[5] The 2014 assessment of this property was prepared using an income approach. All of the space was assigned a typical office rent of \$22.00 per square foot, a vacancy loss allowance of 2.0 percent, operating costs on vacant space at \$13.50 per square foot and a non-recoverable expense allowance equal to 1.0 percent of effective net income. The calculated net operating income of \$1,245,602 was converted to the assessed value by application of a 6.0 percent capitalization rate.

Issues:

[6] The Assessment Review Board Complaint form was filed on February 21, 2014 by Altus Group on behalf of Homer Investments Inc., the "assessed person." Section 4 – Complaint Information had a check mark in the box for #3 "Assessment amount".

[7] In Section 5 – Reason(s) for Complaint, the Complainant stated numerous grounds for the complaint.

[8] At the hearing, the Complainant pursued the following issues:

- 1) The office vacancy rate should be increased from 2.0 percent to 4.0 percent;
- 2) 13,000 square feet of the ground floor area should be assessed as office/warehouse space at a rent rate of \$14.00 per square foot.

Complainant's Requested Value: \$18,410,000

Board's Decision:

[9] The assessment is reduced to \$18,820,000 by changing the vacancy rate and the rental rate on a portion of the ground floor and by increasing the office vacancy rate.

Legislative Authority, Requirements and Considerations:

[10] The CARB is established pursuant to Part 11 (Assessment Review Boards), Division 1 (Establishment and Function of Assessment Review Boards) of the Act. CARB decisions are rendered pursuant to Division 2 (Decisions of Assessment Review Boards) of the Act.

[11] Actions of the CARB involve reference to the Interpretation Act and the Act as well as the regulations established under the Act. When legislative interpretation is made by the CARB, references and explanations will be provided in the relevant areas of the board order.

Position of the Parties

Complainant's Position:

[12] The Complainant's evidence disclosure marked by the CARB as Exhibit C1 was filed with the CARB administration and the Respondent on the prescribed date, July 21, 2014. A Rebuttal document, marked by the CARB as Exhibit C2 was filed on its due date of August 25, 2014.

[13] The Respondent is inconsistent in its market studies. For the office space rental rate, the study reports 11 leases in southeast Calgary office buildings but it excludes leases for office buildings in the Quarry Park community which is a unique area in southeast Calgary. Quarry Park is recognized as unique by the Respondent because office properties are assessed using a higher office rent rate and a lower capitalization rate (5.25 percent versus 6.0 percent) than other southeast suburban offices. In its study of office vacancy, the Respondent does include Quarry Park office properties. This is inconsistent. If Quarry Park properties are excluded from the vacancy study, the suburban office vacancy rate increases from 2.0 percent to 4.0 percent.

[14] The subject property was developed by the owner specifically to accommodate the graphics/printing business of an affiliated company. The design included a ground floor area of approximately 13,000 square feet with 22 foot high walls and a loading dock with a dock door. This "plant" area was designed to accommodate the printing/graphics activities of the occupant. The area does not include the building entry lobby, the reception area or a small customer drop-off/pick-up area. The mechanical systems in the plant area are designed to accommodate the use of the myriad of printing and design equipment.

[15] The tenant roll for the property indicates that West Canadian has a lease that specifies an annual rent of \$23.00 per square foot of its entire ground and second floor leased premises. The property owner and business owner companies have the same ownership and the lease could have been put in place for any number of reasons.

[16] The entire main floor is currently assessed as office space at a rent rate of \$22.00 per square foot. Given the characteristics of the production plant area, that space should be valued as office/warehouse using a \$14.00 per square foot rent rate.

[17] A study of five leases of suburban office/warehouse space indicated that a rental rate of \$14.00 per square foot would be applicable for the production plant space.

Respondent's Position:

[18] The Respondent's evidence disclosure marked by the CARB as Exhibit R1 was filed with the CARB administration and the Complainant on the prescribed date, August 18, 2014. With consent of the Complainant, the Respondent filed colour photographs of the subject property at the hearing. The CARB accepted the photographs and marked the package as Exhibit R2.

[19] The office properties in Quarry Park are similar to other suburban office properties. They compete for tenants with other southeast suburban offices. For these reasons, Quarry Park office properties should remain in the market study for office vacancy.

[20] The entire ground floor of the subject building is coded as office for assessment purposes. The fact that some of the space is being utilized as a print shop does not change the classification of the property from a suburban office to an office/warehouse. Third party sources, including an appraiser who valued the property twice also define it as an office building. The Respondent, along with the Complainant, had inspected the property prior to this complaint hearing and the Respondent remains convinced that the entire ground floor is properly coded as office space. The occupant's printing equipment is not affixed and could easily be removed so the space could be configured as office space.

[21] A tenant roll was attached to the Assessment Request For Information (ARFI) response for 2013. In that tenant roll, West Canadian Digital Imaging, the property owner's company, was listed as tenant in a total of 38,395 square feet of space (ground and second floors) at a single rent rate of \$23.00 per square foot.

[22] In March 2012, the property was independently appraised at \$20,900,000.

[23] The office/warehouse lease rates put forward by the Complainant are from Class "A" and "A2" properties in industrially zoned areas. The subject is an "A+" property in a commercially designated location. Notwithstanding that there is no office/warehouse space in the subject building, the Complainant's requested \$14.00 per square foot rent rate is too low. CARB order 76208 P-2014 confirmed that the appropriate rent rate of "A+" office/warehouse space is \$16.00 per square foot.

Board's Reasons for Decision:

[24] The CARB finds that the office buildings in Quarry Park are not directly comparable to other southeast Calgary suburban offices. They are concentrated in a small area. They attract higher rents than other suburban offices. Some of the properties are fully occupied by a single, large tenant. The Respondent excludes these properties from comparisons of rent rates and it applies a different capitalization rate in the determination of assessments even though those properties are rated as "A" quality properties as is the subject. The CARB finds that Quarry Park office properties are to be excluded from the southeast suburban office vacancy study.

[25] The southeast Calgary suburban "A" quality office study vacancy rate is 3.85 percent after Quarry Park properties are removed from the analysis. This rate is rounded to 4.0 percent.

[26] The approximately 13,000 square feet of ground floor space that are occupied as printing/graphic design production space are coded by the CARB as "A+" office/warehouse space and assigned a typical rental rate of \$16.00 per square foot. That space was specifically designed for its current use. It has a very high (22 feet) wall height and special heating and cooling systems to service the production facility. While it might be possible to reconfigure this or any other space to accommodate offices, it is the market that decides the suitability of the uses to which space might be put but the market has not been tested in this regard. The property owner has no intention of changing the use of the space. From a valuation standpoint, that space fits best into an office/warehouse category.

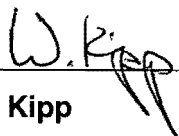
[27] The Complainant's rent study that concluded with a rate of \$14.00 per square foot was focussed on lesser quality properties. The subject is a newer, well located "A+" property. While the Respondent had no comparable property leases in that classification to support the \$16.00 rate, it is a reasonable rate when compared to the \$14.00 rate of "A" and "A2" properties that were examined by the Complainant. The \$16.00 rate had been accepted as appropriate by at least one other 2014 CARB.

[28] The CARB gave no weight to the lease of the West Canadian premises. There were no details provided to the CARB to show that this was or was not an arms-length, open market lease but it was stated in testimony that the property owner and business owner are essentially the same.

[29] The Respondent provided portions of two appraisals of the property (2009 and 2012). The Respondent did not argue that the appraised value supported the assessment. The full appraisal reports were not in evidence and the appraiser was not present to explain the appraisals. The CARB did not place weight on either appraisal.

[30] The 2014 assessment is reduced to \$18,820,000.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF September 2014.



W. Kipp
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure (135 pages)
2. C2	Complainant Rebuttal (49 pages)
3. R1	Respondent Disclosure (131 pages)
4. R2	Respondent Photographs (19 photos)

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 ADMINISTRATIVE USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	OFFICE	LOWRISE	INCOME APPROACH	RENT RATE