

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:

***Deerfoot 17 Corp., COMPLAINANT
(as represented by Altus Group)***

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
P. Cross, BOARD MEMBER
A. Maciag, 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:	071042196
LOCATION ADDRESS:	2710 17 Av SE
FILE NUMBER:	74440
ASSESSMENT:	\$11,310,000

This complaint was heard on 19th day of August, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *B. Neeson, Agent – Altus Group*

Appeared on behalf of the Respondent:

- *M. Ryan, Assessor – City of Calgary*
- *L. Dunbar-Proctor, 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 is a six storey office building located at 2710 17 Av SE, in the Albert Park/Radisson Heights Community. The subject area along 17th Avenue SE consists of predominantly retail properties, with a few office and multi-family residential properties. The subject is 0.82 acres in size, with a total of 68,025 square feet (SF) of assessable area all allocated as office space, and 56 enclosed parking stalls. The building was constructed in 1981 and is assigned a C Quality rating for assessment purposes. The property is zoned Commercial-Corridor 2 (C-COR 2).

[3] The 2014 property assessment is calculated using the Income Approach. The net operating income (NOI) of \$792,275 is divided by the capitalization rate of 7.00%, resulting in an assessment of \$11,310,000 (truncated). The specific factors used to prepare the assessment for this C Quality high-rise SE office property are presented in the table below.

Sub-components	Area	Rental Rate (\$)	Vacancy Rate %	Operating Cost (\$/SF)	Non-Recoverable %
Office	68,025 SF	13.00/SF	9.00	13.50	1.00
Parking	56 stalls	1,440/stall	2.00	0.00	1.00

Issues:

- [4] The Complainant stated that the 2014 Assessment is incorrect for the following reasons:
- The subject property suffers from chronic vacancy, therefore the vacancy rate should be increased to recognize the subject's vacancy.
 - In the alternative, the typical vacancy rate used to prepare the 2014 Assessment is not correct. The correct typical vacancy for this property type is 14%.

Complainant's Requested Value: **\$8,880,000 based on chronic vacancy**

Board's Decision:

- [5] The 2014 Property Assessment is reduced to \$10,290,000 as a result of changing the typical vacancy to 13%.

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: Does the subject property suffer from chronic vacancy?**Complainant's Position:**

[8] The Complainant presented evidence regarding the vacancy of the subject property. The vacancy rate based on the 2013 Assessment Request for Information (ARFI), likely provided in the spring of 2013, is 29.60% as shown in the City's 2014 Suburban Office Vacancy Study: B, C and D Quality (page 27-29, Exhibit C1). A rent roll (page 31-32, Exhibit C1) dated December 2012 indicates a vacancy of 18.5%. A rent roll (page 33-34, Exhibit C1) dated December 2011 indicates a vacancy of 13.2%.

[9] The Complainant introduced a number of previous Board decisions in Exhibit C1 to support the position that generally if a property has three years of above typical vacancy, it is considered to have chronic vacancy. Therefore a much higher vacancy rate than typical is used to calculate the assessment, to recognize this chronic vacancy problem.

[10] The Complainant stated that its evidence demonstrates that the subject vacancy exceeds the typical vacancy used by the City to prepare its assessments for the last three years. The Complainant stated that the property is being actively marketed and is under good management, therefore the chronic vacancy is a function of an oversupply of office space in the market. The median vacancy over the last three years is 18.5%, therefore the Complainant requested that the assessed value be calculated using a vacancy of 18.5% rather than the 9% typical vacancy used to calculate the 2014 Assessment.

Respondent's Position:

[11] The Respondent took the position that the vacancy is due to normal turnover of tenants in this type of property. The Respondent presented the leasing history of the building (page 31, Exhibit R1) with supporting data. The Respondent stated that the leasing history shows that there is no chronic vacancy in the subject. The vacancy of 13.2% in July 2011 is due to one large tenant terminating its lease. As of March 2011, the building had a vacancy rate of 4.2%.

[12] The Respondent stated that there is no reason for the property to be experiencing chronic vacancy. The building is of typical condition for its age, has good access and is located near the downtown core.

Findings of the Board on this Issue:

[13] The Board notes that the vacancy evidence presented by the Complainant is for a period from December 1, 2011 to the spring of 2013 (2013 ARFI). This does not constitute a three year period prior to the July 1, 2013 valuation date. Therefore, the argument that three years of above typical vacancy triggers a chronic vacancy adjustment does not apply.

[14] No reasons were provided as to why this building is experiencing chronic vacancy. If the vacancy is due to oversupply in the market, this should be captured in the typical rate. The Board notes the leasing history presented by the Respondent, which shows what can be considered typical vacancy caused by tenant movement. The Board is not persuaded that the subject property suffers from chronic vacancy.

Issue 2: What is the typical vacancy rate for this C Quality Suburban SE Offices?

Complainant's Position:

[15] The Complainant presented the City's 2014 Suburban Office Vacancy Study: Southeast B, C and D Quality (page 27-28, Exhibit C1) and noted that this study includes B Quality and D Quality office properties. The Complainant stated that there are sufficient C Quality office properties in the data set to derive a vacancy rate specifically for this Quality Class. A vacancy analysis using 29 C Quality Suburban Office properties is presented on page 22, Exhibit C1, resulting in a vacancy rate of 14.18%.

[16] The Complainant stated that should the Board not agree that the subject suffers from chronic vacancy, in the alternative, the assessment should be calculated using a typical vacancy of 14%. The 14% vacancy rate is specific to C Quality Suburban Office properties and the sample size is sufficient to provide a reliable value.

[17] During questioning, the Respondent noted that the Complainant's analysis (page 22, Exhibit C1) does not include one C quality property, with 0% vacancy. The Complainant stated that this was an unintentional oversight and recalculated the vacancy rate including this property to arrive at a vacancy rate of 13.2%.

Respondent's Position:

[18] The Respondent stated that income factors are derived looking at the data, which determines how these groupings are constituted. In this situation, the B, C and D Quality suburban offices compete for the same tenants, with only the rental rate influencing the choice of building. The Respondent stated that the vacancy rate analysis reflects the current market for this type of property, including the subject.

Findings of the Board on this Issue:

[19] The Board notes that there is sufficient data to derive a vacancy rate specific for C Quality Suburban Offices located in the SE and SW quadrants, as was done by the Complainant. The resulting vacancy rate is quite different if B, C and D Quality office properties are included in the analysis, compared to when only C Quality office properties are used in the analysis.

[20] The Board finds that the vacancy rate for C Quality South Suburban Offices is 13%.

Board's Reasons for Decision:

The 2014 Property Assessment is reduced to \$10,290,000 (truncated) as a result of concluding that the typical vacancy rate for C Quality South Suburban Offices is 13%. The calculation is presented below.

	Office	Parking	
Assessed Area/Stalls	68,025.00	56.00	
Rental Rate	13.00	1,440.00	
Potential Net Income	884,325.00	80,640.00	964,965.00

Vacancy Allowance (rate)	0.13	0.02	
Vacancy Allowance	114,962.25	1,612.80	116,575.05
Effective Net Income	769,362.75	79,027.20	848,389.95

Operating Cost (rate)	13.50	0.00	
Operating Cost Shortfall	119,383.88	0.00	119,383.88

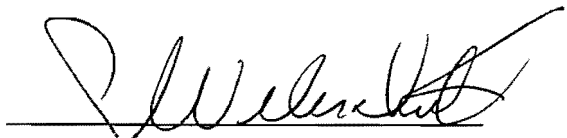
Non-Recoverables (rate)	0.01	0.01	
Non-Recoverables	7,693.63	790.27	8,483.90

Net Operating Income			720,522.18
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Capitalization Rate			0.07
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Calculated Assessed Value			10,293,174
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DATED AT THE CITY OF CALGARY THIS 3rd DAY OF September 2014.



I. Weleschuk
Presiding Officer

**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.*

For MGB Administrative Use Only

Subject	Type	Sub-Type	Issue	Sub-Issue
CARB	Suburban Office	C Quality SE	Vacancy	Chronic vacancy