



## **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:**

***Westfield Willowglen Ltd., (as represented by Altus Group Limited), COMPLAINANT***

**and**

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

**before:**

***Board Chair, T. Hudson PRESIDING OFFICER***

***BOARD MEMBER, J. Pratt***

***BOARD MEMBER, E. Reuther***

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: 201632197**

**LOCATION ADDRESS: 1729 8 AV NE**

**FILE NUMBER: 74518**

**ASSESSMENT: \$29,460,000**

This complaint was heard on the 23rd day of June, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Board room 5.

Appeared on behalf of the Complainant:

- *Ms. D. Chabot, Agent, Altus Group Limited*
- *Mr. M. Cameron, Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

- *Ms. C. MacMillan, Assessor City of Calgary*
- *Mr. M. Ryan, Assessor City of Calgary*

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

[1] There were no procedural or jurisdictional matters in dispute between the Parties.

**Property Description:**

[2] The subject property is a 20.63 acre parcel of commercial land located at 1729 8 AV NE. The property was improved in 1980 with eleven "C" quality low rise office buildings incorporating 283,125 square feet (sf.) of net rentable area.

[3] The property is currently assessed based on capitalized income.

[4] Details of the assessment include the office rental rate of \$12.00 per square foot (psf.), vacancy rate of 14%, \$13.50 psf. operating costs, a 1% non-recoverable expense allowance, and a capitalization (cap) rate of 7.00%.

[5] The total assessed value is \$33,678,929 of which \$4,216,000 is tax exempt.

[6] The value under complaint is \$29,460,000 (rounded).

**Issue: Vacancy Allowance**

[7] The Complainant contends that the assessed vacancy allowance should be increased to 21% from 14%.

**Complainant Requested Value: \$23,170,000 (rounded).**

**Board's Decision:**

[8] The assessment of the subject property is confirmed at **\$29,460,000 (rounded).**

**Legislative Authority, Requirements and Considerations:**

[9] The Composite Assessment Review Board (CARB) derives its authority from Part 11 of 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).*

[10] For purposes of the hearing, the CARB will consider MGA Section 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.*

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

### **Position of the Parties**

#### **Complainant**

[12] The Complainant advised that the subject property has consistently exceeded typical assessed vacancy allowances since 2009, and that the impact of this issue on the market value and assessment equity has been recognized in previous Board decisions every year since that time, including in CARB 72604-2013P, (Exhibit C1 pages 36-40).

[13] The 2013 decision adjusted the assessed rate to 22% from 11% based on the subject's average actual vacancy over the previous three years, which followed the pattern used by previous Boards.

[14] The Complainant argued that the subject property's atypical vacancy is due to negative issues relating to access, parking, amenities, and other physical characteristics, all of which make attracting tenants difficult.

[15] For 2014, the actual vacancy experienced to July 1, 2013 was 19.15%, which remains well above the typical assessed rate of 14.00%, (Exhibit C1 pages 54 and 55).

#### **Respondent**

[16] The Respondent advised that the typical 2014 assessed vacancy rate of 14% for both "B" and "C" quality class suburban office properties in the NE quadrant of the city was derived from Assessment Request for Information (ARFI) reports including that of the subject property. (Exhibit R1, pages 68 and 69).

[17] The Respondent noted that quality class of the subject property was reduced from "B" to "C" for the 2013 assessment.

[18] The Respondent argued that the 2014 assessment request of the Complainant is to apply an actual vacancy rate (i.e. 21%) based on the previous three year average vacancy reported by the subject, and typical "C" quality assessed rates for the other value factors used in the capitalized income approach to the assessment value calculation.

[19] Typical "C" quality value factors include assessed rent at \$12 psf., a \$13.50 psf. operating cost allowance, a 1.0% non-recoverable cost allowance, and a 7.0% capitalization (cap) rate.

[20] The Respondent observed that this inconsistent approach does produce a reduced assessment amount, but not a fair representation of market value and assessment equity.

[21] The Respondent argued that the Complainant had provided no market evidence to support their assertion that greater than assessed vacancy has a negative impact on the market value of the subject property.

[22] The Respondent analyzed the 2013 ARFI of the subject, and noted that the actual effective net income of the subject, (i.e. \$3,326,910, Exhibit R1, page 64), is significantly greater than the typical assessed effective net income in 2014, (i.e. \$2,921,850, Exhibit R1, page 11).

**Board's Reasons for Decision:**

[23] The Board was not convinced by the Complainant, that their assessment request reflects the 2014 market value of the subject property.

[24] The Respondent provided compelling evidence, (i.e. in the form of higher actual versus assessed effective net income in 2013); that the greater actual than assessed vacancy does not appear to be having a negative impact on the market value of the subject property.

[25] The Board noted that the median actual rental value of the subject is \$14 psf., while it is assessed at \$12 psf.

[26] The Board takes the view that the quality class change from "B" to "C" in 2013, adequately addressed the impact of the issues identified by the Complainant, on market value and assessment equity of the subject property.

[27] The Board was also informed during the hearing that the subject property sold for \$30,000,000 in 2011. However, no details of a sale were entered into evidence, so little weight was placed on the information.

DATED AT THE CITY OF CALGARY THIS 25<sup>th</sup> DAY OF JULY 2014.

  
T. B. Hudson

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. C2	Complainant Rebuttal
3. 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**

<i>Decision No. 74518P-2014</i>			<i>Roll No 201632197</i>	
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Office	Multi Building Complex	Market Value and Equity	Vacancy Rate