



**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:**

***Lavalin L.P. Investment Corp.***  
***(as represented by Altus Group Ltd.), COMPLAINANT***

**and**

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

**before:**

***J. Dawson, PRESIDING OFFICER***  
***J. Pratt, BOARD MEMBER***  
***P. Loh, BOARD MEMBER***

This is a complaint to the Composite Assessment Review Board [the 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>067042408</b>
<b>LOCATION ADDRESS:</b>	<b>911 5 AV SW</b>
<b>FILE NUMBER:</b>	<b>74660</b>
<b>ASSESSMENT:</b>	<b>\$40,320,000</b>

This complaint was heard on the 29th day of July, 2014 at the office of the Calgary Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *S. Meiklejohn* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *D. Zhao* *Assessor, The City of Calgary*
- *C. Fox* *Assessor, The City of Calgary*

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

[1] The Board derives its authority to hear this complaint under Section 460.1(2) of the Act. The Board composition is as required under Section 453(1)(c) of the Act. There are no objections from the Complainant or the Respondent with the Board as constituted, its jurisdiction or any party appearing before the Board.

[2] The Board has reviewed the complaint form and has confirmed there is a valid complaint under Section 460(5) of the Act. The Board has confirmed that the representatives before the Board have the authority to act on behalf of the Complainant and the Respondent for this complaint.

[3] The Complainant and Respondent both agreed to carry forward all evidence, testimony, answers and questions from decision CARB 75695P-2014 to this hearing.

[4] There are no additional preliminary, procedural, or jurisdictional issues.

**Property Description:**

[5] The subject is a ten storey building located at the corner of 8th Street and 5th Avenue SW in the downtown Non-Residential Zone [NRZ] of DT2. It has been stratified as a 'B-' quality office building containing 122,079 square feet of assessable area and 52 assessable parking spaces. Built in 1978, it is referred to as 'Lavalin Centre'.

[6] The Income Approach to Value is utilised to derive the assessment using the following parameters: 121,814 square feet of office space at \$16 per square foot, 265 square feet of retail space at \$20 per square foot, and 86 parking spaces at \$4,200 per space. Non-recoverable is set at 2.0%, office vacancy at 3.0%, retail vacancy at 8.0%, and parking vacancy at 0.0%. The operating costs are \$15.00 for office, \$20 for retail, and \$0 for parking space. The overall capitalisation rate is set at 5.0%.

**Issues:**

[7] Vacancy is the first issue. The Complainant has concern with certain buildings being utilised in the vacancy study and is asking for an adjustment to 4.0% from 3.0%. Parking vacancy is requested to change to 2.0% from its current 0.0%.

[8] The second issue is office rental rate. The Complainant is requesting site specific office rental rate because the actual rental rates being achieved are lower than typical for 'B-' buildings in DT2.

[9] The overall capitalisation rate is the final issue. The Complainant has recalculated the Respondent's capitalisation study by removing a building, adding another building and changing the methodology. The end result is a request of 5.75%, which is identical to all other stratifications of office buildings in the downtown.

**Complainant's Requested Value: \$29,350,000**

**Board's Decision:**

[10] The Board confirmed the assessment at \$40,320,000.

**Legislative Authority, Requirements, and Considerations:****The Municipal Government Act**

Revised Statutes of Alberta 2000 Chapter M-26

**Interpretation**

1(1) In this Act,

(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

**Position of the Parties****Issue: Vacancy****Complainant's Position:**

[11] The Complainant argued that the Respondent included buildings within the vacancy study incorrectly resulting in a lower vacancy rate than typical.

[12] The Complainant restated vacancy reports for 'B' and 'B-' quality in one report along with separate reports for 'B' and 'B-' quality. The results indicate a 3.22% overall vacancy using the Respondents methodology with a 3.33% for 'B' (assessed at 3.5%) and a 2.89% for 'B-' (assessed at 3.0% (CARB 75695P-2014 C1 pp. 74-82).

[13] The Complainant argued that the Respondent has made errors by; the inclusion of owner / user buildings within its vacancy study. Removing the 'B-' quality owner / user building – J.J. Bowlen Building results in a 3.39% vacancy rate (CARB 75695P-2014 C1 p. 76).

[14] The Complainant argued in support of the 2.0% vacancy allowance for parking by

indicating that nothing has changed in the market and 2.0% has always been given for the assessment.

**Respondent's Position:**

[15] The Respondent argued that the 'B-' quality owner / user building – J.J. Bowlen Building is within the study and should remain.

[16] The Respondent provided the results of its '2014 B- DT2, 3, 9 Office Vacancy Rate' study, which shows a 2.89% vacancy and is assessed as 3.0% vacancy. (R1 p. 100).

**Board's Reasons for Decision:**

[17] The Board removed the 'B-' quality owner / user building – J. J. Bowlen Centre from the vacancy study prepared by the Respondent because there is no information available as to the actual space in use. If space were available, it is uncertain whether it would be offered for lease and therefore the property does not contribute to the available space within the marketplace.

[18] The Board found the resultant office vacancy rate changes to 3.39%, which is higher than the value calculated by the Respondent. A change to the office vacancy rate can be supported; however, this minor change in the absence of any other change results is less than a 1% change in the total assessment; therefore, the original assessment falls into a range of probable assessments. The Board did not make a change in the overall assessment.

[19] The Board found no evidence from either party on the parking vacancy. Without evidence to support the Complainant's claim, the Board must accept the assessed 0.0% parking vacancy rate.

**Issue: Office Rental Rate****Complainant's Position:**

[20] The Complainant argued that the actual rental rate being achieved within the subject building is atypical – asking the Board to change the assessed office rental rate to \$13.50. The rent roll and assessment request for information is provided showing the \$13.50 rate for much of the office space (C1 pp.35-37).

**Respondent's Position:**

[21] The Respondent argued that the subject is contained within the '2014 B- Class DT2, 3, 9 Office Rent Analysis'. If the subject property is removed from the study than the resulting weighted mean becomes \$17 per square foot (R1 pp. 96-97).

**Board's Reasons for Decision:**

[22] The Board found no evidence to suggest that the subject has been improperly stratified and the subject leasing activity is reflected in the office rental rate analysis. The Board made no change to the assessed office rental rate.

**Issue: Capitalisation Rate****Complainant's Position:**

[23] The Complainant argued that the Respondent's capitalisation rate study contained errors. The Complainant removed the building at 520 5 AV SW from the Respondent's analysis because the Complainant places a quality grading of 'A' on that building, similar to how the Respondent graded it in 2013. Additionally, the Complainant added 209 8 AV SW to its analysis because it is typical of 'B' quality buildings in DT2. The methodology employed by the Complainant is to determine the NOI as of the date of sale by bracketing rental rates. Supporting documents for calculations and the validity of sales is included (CARB 75695P-2014 C1 pp. 86-198).

**Respondent's Position:**

[24] The Respondent argued that its capitalisation rate study is conducted properly and provided assessment to sales ratio information to prove it. A time adjustment analysis was conducted with the results provided. Supporting documents are included. The Respondent provided an analysis of the Complainant's requested capitalisation rates and the assessment to sales ratio for each showing that the Respondent provides an assessment closer to the time adjusted sales price than the Complainant does (CARB 75695P-2014 R1 pp. 64-71, 78-91, and 109-113).

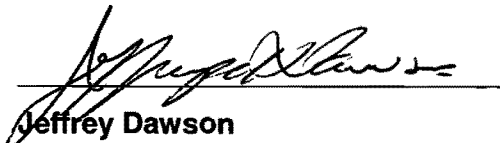
**Board's Reasons for Decision:**

[25] The Board spent considerable time reviewing the evidence of each party. The Complainant's methodology of finding the market rental rates as of the date of sale is sound; however, falls short of finding the total Net Operating Income [NOI] as of the date of sale.

[26] The Board found the sale at 520 5 AV SW does not stratify well with the five other sales and removed it from the analysis. Likewise, the Board did not include the building at 209 8 AV SW because it is not similar to the subject or the five other sales.

[27] The Board notes that three of the remaining five sales accepted by the Board occurred a full year prior to the valuation date and are correctly analysed using 2012 typical data. The Board finds the sale at 855 8 AV SW is analysed correctly by the Respondent but found the sale at 639 5 AV SW looks backwards for typical NOI. The Board finds the forward looking approach preferable. Correcting the error on 639 5 AV SW continues to find a median capitalisation rate that supports the assessment.

DATED AT THE CITY OF CALGARY THIS 2<sup>nd</sup> DAY OF September 2014.



Jeffrey Dawson  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1 – 182 pages	Complainant Disclosure
2. R1 – 188 pages	Respondent Disclosure
3. CARB 75695P-2014 C1 – 199 pages	Complainant Disclosure
4. CARB 75695P-2014 R1 – 138 pages	Respondent Disclosure
5. CARB 75695P-2014 C2 – 214 pages	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.*

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	High Rise	Income Approach	Capitalisation Rate