



**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:**

***Dundee Canada (GP) Inc.***  
***(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>067046508</b>
<b>LOCATION ADDRESS:</b>	<b>840 6 AV SW</b>
<b>FILE NUMBER:</b>	<b>75642</b>
<b>ASSESSMENT:</b>	<b>\$47,890,000</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 have 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 an eight storey building located at the corner of 8th Street and 6th Avenue SW in the downtown Non-Residential Zone [NRZ] of DT2. It has been stratified as a 'B' quality office building containing 109,392 square feet of assessable area and 86 assessable parking spaces. Built in 1978, it is referred to as 'Atrium II' and is adjacent to a near identical structure called 'Atrium I'.

[6] The Income Approach to Value is utilised to derive the assessment using the following parameters: 100,756 square feet of office space at \$22 per square foot, 8,636 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 3.5%, retail vacancy at 8.0%, and parking vacancy at 0.0%. The operating costs are \$16.50 for office, \$20 for retail, and \$0 for parking space. The overall capitalisation rate is set at 5.0%.

[7] Approximately 6,738 square feet of office space is exempt from taxation; therefore, the assessed amount reflects a reduction of \$2,780,000 to account for that area. As this area is

contained within another assessment roll, which is not under complaint, no change can be made to the exempt space assessment.

**Issues:**

[8] The quality rating of 'B' is being requested to be changed to 'B-'. This request is based on the physical condition and characteristics of the subject with an emphasis placed on the exclusion of the subject from the plus fifteen network in downtown.

[9] Vacancy is the second issue. The Complainant has concern with certain buildings being utilised in the vacancy study and is asking for a minor adjustment to 4.0% from 3.5%. Parking vacancy is requested to change to 2.0% from its current 0.0%.

[10] 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: \$32,030,000**

**Board's Decision:**

[11] The Board confirmed the assessment at \$47,890,000.

**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: Quality****Complainant's Position:**

[12] Listed as the Complainant's third issue, the Board dealt with quality first as it does have an impact on at least one of the other issues. The Complainant argued that the subject is better compared to 'B-' quality structures primarily because of its lack of plus fifteen connectivity. Also the rents being achieved are more reflective a 'B-' quality building.

[13] The Complainant reviewed its evidence on characteristics and physical condition, including a review of the property description and its location within the west end of downtown. The Complainant identified the buildings surrounding the subject and their quality ratings. The

subject is a block from the Light Rail Transit [LRT] system with no connection to the plus fifteen network – a network of above ground pedestrian corridors connecting many of Calgary's downtown buildings together (CARB 75695P-2014 C1 pp. 19-33).

[14] The Complainant presented information regarding financial performance to show the subject performs more like a 'B-' structure than a 'B' structure. The information reported revenue of \$16.12 per square foot for the entire space including vacant spaces. Though nearly identical to 'Atrium I', the subject is achieving higher rental values because its leases are typically for smaller areas; whereas, 'Atrium I' leases are for full floor plates (C1 pp. 35-57).

[15] The Complainant disclosed information from the Respondent regarding the key factors and components for assessing the quality grade (class) of office buildings. Twelve quality grades exist with the criteria listed as; location, age, condition, building functionality, number of floors, total rentable area, floor plate size, type and quality of construction, parking availability and capacity, quantity of retail space, tenant amenities, and rent generating capacity. The Complainant argued that plus fifteen connectivity is a key consideration and that subject's property rents, vacancy and operating costs present a red flag as to the correct quality classification (CARB 75695P-2014 C1 pp. 55-58).

[16] The Complainant provided a chart of key factors and components displaying the subject property compared to 'B-' and 'C' buildings to show that the subject looks like a 'B-' as requested (CARB 75695P-2014 C1 p. 59).

[17] The Complainant presented, within the Rebuttal Disclosure, nine charts to compare the subject to 'B-' buildings. The results show that; in terms of age it was within the range, for number of stories it was the shortest, for the floor plate size it was within the range, office area was on the low side, retail area was in the middle, total area on the low side, retail percentage was on the higher side, the subject is in the middle when looking at the number of parking stalls, and parking ratio is within the range (CARB 75695P-2014 C2 pp. 100-109).

[18] The Complainant referred to CARB 1006/2012-P being a decision on 'Atrium I' in 2012 where the Board found it to be a 'B-' versus the assessed 'B'.

#### **Respondent's Position:**

[19] The Respondent provided general information regarding the subject (R1 pp. 6-11).

[20] The Respondent presented four charts to show how the subject property compared with 'B' quality office buildings in the DT2 NRZ using different criteria, including; total square feet, floor plate size, parking ratio, and retail space. In each of the four charts the subject is neither the highest nor lowest – showing the subject fits within the ranges (CARB 75695P-2014 R1 pp. 15-19).

[21] The Respondent argued that though plus fifteen access is a factor to consider, other 'B' and 'B-' buildings exist, some that are connected, and some that are not connected to the plus fifteen network. Plus fifteen access alone does not determine if a building is considered a 'B' or 'B-'.

#### **Board's Reasons for Decision:**

[22] The Board considered carefully the evidence before the Board including CARB 1006/2012-P and found the evidence is inconclusive to change the quality grading. The charts for both parties show how the subject fits nicely within the range for both 'B' and 'B-' quality

buildings. The subjectivity involved in grading makes it difficult for the Board to interfere in the quality grading without solid proof, as was provided for the CARB 1006/2012-P decision; therefore, the quality grading remains a 'B'.

**Issue: Vacancy****Complainant's Position:**

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

[24] 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).

[25] The Complainant argued that the Respondent has made errors by; the inclusion of owner / user buildings, and the inclusion of single tenant buildings, within its vacancy study. Removing the 'B' quality owner / user building – Catholic School Centre, and removing the 'B' quality single tenant buildings – Harry Hays Building and University Centre, results in a 4.0% vacancy rate (CARB 75695P-2014 C1 p. 76).

[26] 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:**

[27] The Respondent argued that the 'B' quality single tenant buildings – Harry Hays Building and University Centre, are privately held and should be included in the vacancy study. The 'B' quality owner / user building – Catholic School Centre is within the study and should remain.

[28] The Respondent provided the results of its '2014 B DT2, 3, 9 Office Vacancy Rate' study, which shows a 3.28% vacancy and is assessed as 3.5% vacancy. Information on the single tenant buildings is included to show they are privately held (CARB 75695P-2014 R1 pp. 20-58).

**Board's Reasons for Decision:**

[29] The Board removed the 'B' quality owner / user building – Catholic School 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. Therefore, the property does not contribute to the available space within the marketplace.

[30] The Board retained the 'B' quality single tenant buildings – Harry Hays Building and University Centre, as they are privately held and have tenant rolls showing the space under lease and the owner reports vacancy, if any. If space were returned to the owner, it would be made available for lease within the marketplace.

[31] The Board found the resultant office vacancy rate changes to 3.4%, which is higher than the value calculated by the Respondent; however, less than the assessed rate of 3.5%. No change to the office vacancy rate is made.

[32] 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: Capitalisation Rate****Complainant's Position:**

[33] 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:**

[34] 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 rate 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:**

[35] 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.

[36] 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.

[37] 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 28<sup>th</sup> DAY OF August 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 – 212 pages	Complainant Disclosure
2. R1 – 137 pages	Respondent Disclosure
3. C2 – 214 pages	Complainant Rebuttal Disclosure
4. CARB 75695P-2014 C1 – 199 pages	Complainant Disclosure
5. CARB 75695P-2014 R1 – 138 pages	Respondent Disclosure
6. 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>				
<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Office	High Rise	Income Approach	Capitalisation Rate