



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:

***Cal-Ed Fifth Avenue Holdings Limited
(as represented by Altus Group Ltd.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***C. Griffin, PRESIDING OFFICER
A. Macaig, BOARD MEMBER
J. Massey, BOARD MEMBER***

This is a complaint to the Composite 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: 067049205

LOCATION ADDRESS: 639 - 5th Avenue SW

FILE NUMBER: 75644

ASSESSMENT: \$115,430,000.

This complaint was heard on 5th & 6th day of August, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- S. Meiklejohn (Altus Agent)

Appeared on behalf of the Respondent:

- J. Young (Assessor, City of Calgary)

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

- [1] There were no Procedural or Jurisdictional Matters brought forth by either party.

Property Description:

[2] According to the Assessment Summary (Exhibit C-1, pg. 23) the subject property is a 'B' Quality hi-rise office building located within the central core of the city of Calgary in that area referred to as DT2. The property, which was originally constructed in 1969, contains a total gross area of 294,007 Sq. Ft. which includes 271,045 Sq. Ft. of office space and 10,777 Sq. Ft. of retail space. There is an exempt office area of 12,185 Sq. Ft. which is not under Complaint. There are 87 underground parking stalls and the building is connected to the +15 walk-way system.

Issues:

- [3] The Complainant brought forward the following issues to be considered by the CARB:
- 1) The assessed value is currently incorrect as the applied vacancy rate of 3.5% is too low and would better reflect Market Value at 4%.
 - 2) The assessed value is currently incorrect because the Assessor has not applied a 2% parking vacancy rate.
 - 3) The Respondent's use of net operating income derived from the mid-point of the year in which the sale occurred creates an inconsistency and results in an applied capitalization rate (5%) that is too low and applying a capitalization rate of 5.5% would result in an assessment more reflective of market value.

Complainant's Requested Value: \$103,910,000. (Net of Exemption)

Board's Decision:

[4] The Assessment is **Confirmed** at **\$115,430,000**. (Net of Exemption)

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

[5] It is the contention of the Complainant that the applied vacancy rate of 3.5% is too low and it would be more reflective of market value at 4%. The Complainant suggests that the reason the applied vacancy rate is too low stems from the fact that the Respondent incorporates buildings into their vacancy study which should not have been included. Specifically, the Complainant referred to the Harry Hays Building, the University of Calgary Downtown Campus Building and the Catholic School Board Building. It is the contention of the Complainant that these are single tenant occupied buildings that do not compete in the marketplace for tenants, other than some small retail spaces for coffee shops or the like. Incorporating these buildings into the study distorts the outcome by increasing the total amount of space from which the vacancy rate is to be derived. The Complainant maintains that the aforementioned buildings should be removed from the inventory to be surveyed.

[6] With regard to the second issue, the parking vacancy, the Complainant notes that in the past the Assessor has incorporated a 2% parking vacancy allowance; however, the current assessment of the subject does not incorporate same. The Complainant acknowledges that this may have been a simple mistake on the part of the Assessor but maintains that same should be incorporated into the assessed value under complaint.

[7] In terms of the third issue, the capitalization rate, the Complainant argues that the Respondents use of net operating income taken from the midpoint of the year in which the sale took place does not provide the most accurate rental income data for a building. The Complainant points out that most appraisal texts indicate that the rental income from that date closest to the sale date best reflects the income potential and will result, assuming all other factors to be correct, in a more accurate capitalization rate. In support of this argument, the Complainant introduced (Exhibit C-1 pg. 86) a chart showing the differences in indicated weighted average rental rates applicable to the building sales utilized for the capitalization rate study when the analysis is segmented into various 6 month segments. By further narrowing the analysis to the three month period closest to the sale dates the Complainant points out the rental rate indication for sales 1, 2 & 3 should be \$21/Sq. Ft. For sale number 4 the indication is \$22/Sq. Ft. and for sale 5 the indication is also \$22/Sq. Ft. The foregoing analysis resulted in capitalization rates of 5.91%, 5.60% and 5.26% for sales 1, 2 & 3 respectively, 5.22% for sale 4 and 5.47% for sale 5. Arrayed statistically, results in a Median capitalization rate of 5.47 % which the Complainant rounds to 5.5%.

[8] A second matter of concern from the Complainant's point of view, pertaining to the capitalization rate issue, is the Respondent's use of a sale of a property located at 520 – 5th Ave. SW. in their capitalization rate study. The Complainant maintains that this property is incorrectly classified as being a 'B' as it should more accurately be classified as an 'A'. The Complainant indicated that this building has indeed been classified as being an 'A' in the past.

Respondent's Position:

[9] With regard to the first issue of the appropriate vacancy rate, the Respondent maintains there is no reason to exclude the buildings that the Complainant has suggested be removed from the study as they have all been sold in the marketplace at one time or another. This indicates that they are active participants in the marketplace and therefore should be included in the study.

[10] Insofar as the parking vacancy rate is concerned, the Respondent maintains that the rate is currently zero; therefore, no parking vacancy has been incorporated into the assessment analysis. The Respondent also pointed out to the CARB that the Complainant provided no support for their requested 2% parking vacancy allowance.

[11] The Respondent maintains that using the mid-point of the year in which the sale took place to derive the appropriate typical rental rate and then a capitalization rate is the most reasonable approach as this captures the rental rate that is most appropriate for the Date of Valuation. The Complainant's method of deriving the appropriate net operating income is inconsistent and opportunistic. The Respondent maintains that this method of income stabilization will invariably lead to a higher capitalization rate, but only in an increasing market. The Respondent pointed out to the CARB that the Complainant has not had a similar complaint about the mid-year timing for rental rates for other classes of downtown office properties, such as the 'A' class, that they have also represented the owners of before the CARB this year.

[12] Referring to the inclusion of the sale of 520 – 5th Ave. SW in their capitalization rate study, the Respondent maintains that the property is a 'B' quality building which has been assessed as such and provided (Exhibit R-1 pg. 69) a copy of the Property Assessment Detail Report which clearly indicates same. The Respondent contends that the Complainant has provided no evidence to support their claim that the property has been mis-classified and that it should be an 'A' class building and therefore not be included in the capitalization rate study for 'B' class buildings.

Board's Reasons for Decision:

[13] The CARB agrees with the Complainant that both the Harry Hays Building and the University of Calgary Downtown Campus Building should not be included in the 'B' class vacancy survey as neither of these buildings offers space, other than perhaps small retail space, for lease in the open marketplace. The Respondent's argument that these buildings were once sold in the open market and that factor justifies there being included in the study does not make a lot of sense to the CARB. The point is that they do not compete in the market place for new tenants nor are they likely to in the future. Including them in the vacancy study does distort the total square footage in the study and thus the vacancy rate. The Catholic School Board Building appears to be a different situation as they do in fact have one floor of space that is leased to an outside party and on this basis they do compete in the market for tenants and the CARB is of the judgment that this building should be included in the study. The end result of this is that the reported vacancy rate does increase to 4% (rounded). While the CARB does accept this as being more accurate, the net result on the total assessed value is, at approximately .0025%, negligible.

[14] With regard to the parking vacancy issue, the CARB finds no evidence provided by the Complainant to support their position and, accordingly, no adjustment to the assessed value is warranted to account for parking vacancy.

[15] In terms of the capitalization rate, the Complainant contends that the sale of the property located at 520 – 5th Ave. SW has been incorrectly incorporated into the 'B' category of downtown office buildings and that it should in fact be excluded from the study, thereby increasing the assessed capitalization rate to 5.5%. The Complainant maintains that this building should be in the 'A' category based upon the sales price/Sq. Ft. it achieved as same is more indicative of an 'A' building. The CARB does not accept this argument as the unit of comparison, in this case the selling price/Sq. Ft., is not a valid basis for selecting comparables. This position of the CARB is supported in the text *Real Property Assessment* published by the *Sauder School of Business Real Estate Division*, which states:

*"The price per unit of comparison is the dependant variable – what is being estimated- in the valuation model. The value of the dependant variable is predicted by (or depends on) the value of other variables, such as property attributes. **The unit of comparison should never be the grounds for selecting comparables.** Property attributes should be used instead."* (Emphasis added).

[16] The Complainant also indicated to the CARB that the classification of this building has been changed by the Assessor from year to year based upon the rental rate being achieved. This is also an incorrect practice, as indicated in the above given quotation. If the rental rate being achieved were to form the basis of an office building classification then it would follow that when the office vacancy rate is very low or even zero, as it was in Calgary a few years ago, and just about any available office space could be leased at very high rates, the entire office inventory should have been re-classified to 'A'. It is the expectation of the CARB that such a basis for building classification will not continue.

[17] In the final analysis the CARB finds no justification to alter the assessed value of the subject property based upon the evidence produced by the Complainant. The CARB is also cognizant of the fact that the subject property did sell in 2012 for a reported \$114,200,000 (Exhibit R-1 pg. 190) which the CARB finds to be fully supportive of the current assessed value.

DATED AT THE CITY OF CALGARY THIS 26th DAY OF August 2014.


C. J. Griffin

Presiding Officer

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

NO.	ITEM
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.*

CARB Identifier Codes

Decision No. 75644P-2014			Roll No. 067049205	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Office	B Class	Cap. Rate	Vacancy, Rental Rate

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