



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:

Roslyn Building Holdings Inc. (Represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, PRESIDING OFFICER
R. Cochrane, BOARD MEMBER
J. Rankin, 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:	068052703
LOCATION ADDRESS:	400 – 5 Avenue SW, Calgary AB
FILE NUMBER:	75656
ASSESSMENT:	\$58,090,000

This complaint was heard by a Composite Assessment Review Board (CARB) on the 20th day of August, 2014 in Boardroom 4 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- S. Meiklejohn Agent, Altus Group

Appeared on behalf of the Respondent:

- C. Fox Assessor, The City of Calgary
- K. Gardiner Assessor, The City of Calgary

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

[1] Pursuant to legislation regarding assessment complaints and assessment review board responsibility, the CARB reviewed the complaint file and determined that the complaint form and an agent authorization form were appropriately filed.

[2] There were no problems with filing of party disclosure but it was noted that one of the Respondent's disclosure documents (R1) was intended to be applicable to several complaint files that were being heard on the same agenda. The Complainant had no objection to the CARB designating the document as Exhibit R1 and making it applicable to files 75742, 75656, 75671, 74677, 74661, 75654 and 75659. Respondent's disclosure document marked R2 is specific to this file only.

[3] Neither party had any objection to the composition of the CARB panel.

[4] There were no jurisdictional matters to be decided.

Property Description:

[5] The property that is the subject of this assessment complaint is the Roslyn Building, a 10 storey office building containing a total area of 131,762 square feet, situated on a 20,988 square foot commercial site in the DT1 economic zone of downtown Calgary. The year of construction of the building is 1966. There are 33 underground parking stalls. This corner property is connected to downtown Calgary's +15 elevated walkway system.

[6] For the 2014 assessment, this property is assessed using the input factors for a "B-" quality downtown office. Typical rents are: office @ \$23.00 per square foot, level 1 retail @ \$22.00 per square foot and parking stalls at \$4,800 per stall per year. Vacancy allowances of 4.0 percent (office), 8.0 percent (retail) and 0.0 percent (parking) are deducted. Operating costs are \$15.00 per square foot for office and \$20.00 per square foot for retail. A non-recoverable expense allowance is deducted at 2.0 percent of effective net income. The net operating income of \$2,904,994 is capitalized at a rate of 5.0 percent to yield the assessment amount that is truncated to \$58,090,000.

Issues:

[7] The Assessment Review Board Complaint form was filed on March 2, 2014 by Altus Group on behalf of Roslyn Building Holdings Inc., the "assessed person." Section 4 – Complaint Information had a check mark in the box for #3 "Assessment amount".

[8] In Section 5 – Reason(s) for Complaint, the Complainant stated numerous grounds for the complaint.

[9] At the hearing, the Complainant pursued the following issues:

- 1) The characteristics of this property suggest that it should be assessed as a "C" quality office property and not a "B-" quality property. As a "C" property, the input variables for office rent, vacancy and capitalization rate should be changed.
- 2) If the CARB finds that the property is best assessed as a "B" property, the capitalization rate should be increased from 5.0 to 5.5 percent.

Complainant's Requested Value: \$27,430,000

Board's Decision:

[10] The CARB adjusts the capitalization rate from 5.0 to 5.5 percent. All other input parameters remain unchanged. The revised assessment is \$52,810,000.

Legislative Authority, Requirements and Considerations:

[11] The CARB is established pursuant to Part 11 (Assessment Review Boards), Division 1 (Establishment and Function of Assessment Review Boards) of the Act. CARB decisions are rendered pursuant to Division 2 (Decisions of Assessment Review Boards) of the Act.

[12] Actions of the CARB involve reference to the Interpretation Act and the Act as well as the regulations established under the Act. When legislative interpretation is made by the CARB, references and explanations will be provided in the relevant areas of the board order.

Position of the Parties

Complainant's Position:

[13] The Complainant's evidence disclosure marked by the CARB as Exhibit C1 was filed with the CARB administration and the Respondent on the prescribed date, July 7, 2014.

[14] The Respondent assesses this property as a "B-" downtown office property. Study of the characteristics used by the Respondent in determining quality class indicates that the subject fits into the range of characteristics for class "C." The three most recent leases (2012) are at rent rates of \$16.00, \$24.00 and \$35.00 per square foot. The \$35.00 rate is clearly an outlier and should be disregarded. The remaining two rates fit within the range of rents for "C" class office space. Other "C" buildings in DT1 are better located (8 Avenue SW) than the subject which is farther north on 4 Avenue SW.

[15] As a class "C" property, the office typical rent rate is \$20.50 per square foot. The vacancy rate and capitalization rate used in assessing "C" properties are incorrect.

[16] The Complainant provided evidence and argument to support changes to the "C" class vacancy rate and capitalization rate. After consideration of the evidence and testimony of both parties, the CARB did not find sufficient support for a change of assessment parameters to those of a "C" property. For this reason, full details of the Complainant's evidence regarding "C" quality office assessment input parameters are not presented in this order.

[17] If the CARB decides that the property is to remain assessed as a "B" quality office, the Complainant argued that the capitalization rate is incorrect. The capitalization rate for all "B" office properties in downtown should be 5.50 percent and not 5.00 percent. The Respondent derives the 5.0 percent capitalization rate from analysis of six sales of "B", "B-" and "B-C" office properties in DT1 and DT2. There are two flaws in the Respondent's study:

- 1) An incorrect net operating income is used in each sale analysis. The net operating income based on typical rents for the July 1 valuation date closest in time to the date of sale is used. The correct methodology is to use the net operating income based on typical rents as at the exact sale date.
- 2) One of the properties in the study, 520 5 Avenue SW, is incorrectly classed as a "B" property. It is an "A" class property and should be removed from this analysis.

[18] Three of the five remaining property sales were transactions between the same vendor and purchaser. The purchaser allocated prices to each individual property. If the aggregate of the net operating income amounts is related to the total price, the overall capitalization rate is 5.57 percent.

[19] The Complainant arranged the Respondent's office lease data to overlap each of the property sale dates by periods of six, ten and 12 months. This analysis concludes that typical office rents were \$21.00 per square foot in June 2012 and \$22.00 per square foot in November 2012 and February 2013 (the sale dates). If these rents are applied to office space in each sale property as at the date of sale, four of the five capitalization rates are higher than those of the Respondent and one is slightly lower. The mean and median are 5.49 and 5.47 percent. The conclusion is that the correct capitalization rate for "B" and "B-" office properties is 5.50 percent. Only office rents are analyzed in depth in the study because other space types such as retail and storage have minimal impact on the final property value.

[20] The sixth sale, at 520 – 5 Avenue SW, relied upon by the Respondent is a superior property. The five properties that are properly classified indicate sale prices from \$345.45 to \$407.44 per square foot of building area. The lowest price is for a property that contains both "B" and "C" quality buildings. The three "B" properties sold at prices from \$407.44 (June 2012) to \$401.72 per square foot (February 2013), an indication that values had not changed over that eight month period of time. 520 – 5 Avenue SW sold at more than \$500 per square foot. Standard Life sold one of the other "B" properties in November 2012 at \$405.22 per square foot and purchased 520 – 5 Avenue SW that same month at \$506.69 per square foot. In the mind of Standard Life, it was purchasing a better property than the one it sold.

[21] If the CARB decides to keep the subject property in the "B-" office property class, the capitalization rate should be changed to 5.50 percent.

Respondent's Position:

[22] The Respondent's evidence disclosure documents marked by the CARB as Exhibits R1 and R2 were filed with the CARB administration and the Complainant on the prescribed filing date, August 5, 2014. R1 is applicable to several files on the same agenda as 75656. Exhibit R2 is specific to 75656.

[23] The subject property's physical characteristics fit into the ranges of those for "B-" buildings as well. Third party market analysts such as Cresa Partners rate the subject as a "B" quality property. The February 27, 2013 rent roll shows one full floor lease commencing March 15, 2012 at \$24.00 per square foot. This is the best evidence of rent within the office floors of the building and it supports the \$23.00 per square foot assessed rate. The Complainant's "C" office rent study lists eight leases in DT1 buildings. Those leases range from \$10.90 to \$31.25 per square foot and have mean and median rates of \$21.39 and \$21.00 per square foot. The comparable study of "B-" offices set a range from \$13.00 to \$30.00 per square foot with mean and median of \$22.38 and \$22.00 per square foot, respectively.

[24] The Respondent presented detailed evidence with respect to the valuation input factors for class "C" downtown office properties but, as stated previously, the CARB elected to not apply those parameters in the assessment so details are not summarized in this order.

[25] Having regard to 520 – 5 Avenue SW, the Complainant is basing the request for a class change solely on a difference in sale price. Third party market analysts like Cresa Partners and Altus Insite place the property into the "B" class. If this property is removed from the capitalization rate study, which it should not be, the capitalization rate conclusion changes to 5.02 percent which has no impact on the final rate selection.

[26] The Respondent has never seen an appraiser use an approach similar to that of the Complainant when extracting capitalization rates from sales.

[27] The Complainant's capitalization rate analysis is inconsistent because it uses two different rent rates but assessment uses just one which is the preferred method, confirmed by Municipal Government Board and CARB decisions.

[28] The Complainant has analyzed only office rents.

[29] The Respondent's capitalization rate study analyses each sale using typical inputs (rents, vacancy etc.) as at the July 1 valuation date which is nearest in time to the date of sale. This approach is used consistently for all types of properties that are assessed using an income approach.

Board's Reasons for Decision:

[30] The CARB finds that the subject property classification is as a "B-" downtown office. For the most part, its physical characteristics fit it into either a "B-" or "C" quality class. It has a good DT1 location on one of the major one-way avenues. As was argued by the Respondent, leasing within the subject is not the sole determinant of class. The recent \$16.00 and \$24.00 leases in the subject offices are rates that fit into both of the stated ranges. Third party classifications are of limited value because each analyst bases classifications on different criteria and the criteria used by the third parties was not in evidence. The evidence does not support any change to the valuation parameters reflecting the difference between "B-" and "C" properties.

[31] There was insufficient evidence to support the exclusion of 520 – 5 Avenue SW from the capitalization rate study. Sale price alone (\$500 versus \$400 per square foot) is not enough to

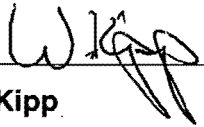
warrant a property reclassification.

[32] The CARB gave careful consideration to the Complainant's issue of the proper net operating income to use in a capitalization rate extraction process. The Complainant's argument is logical and consistent with appraisal methodology wherein the focus is on the date of sale of a property. Appraisers focus on the sale date but they tend to use actual rents rather than typical rents as is prescribed in a mass appraisal model. The best analysis of a sale comes from consideration of all factors that were prevalent at the date of sale. The Complainant's analysis used only typical rents (as reported by the Respondent) as at the date of each sale. The difference is that the Complainant's methodology picked the rent from the date of sale rather than from a "nearby" valuation date. The CARB finds this to be a superior method of measuring factors that would have impacted the decisions of the participants in the sale transaction. It is the same data that is used but the focus changes from a nearby valuation date to the actual date of sale. The CARB finds that the 5.50 percent capitalization rate found by this sale date methodology is more accurate for this property type and class than the 5.0 percent rate determined by the Respondent's methodology that relates to valuation dates.

[33] The Respondent seems to be implying that the same rent rate is to be used both in the extraction and the application of a capitalization rate. That is not what prior CARB and Municipal Government Board decisions have stated. Those decisions spoke of consistency in the use of typical inputs. They did not state that the same rates had to be used. In this case, the Complainant has used typical rents for both the capitalization rate extraction (date of sale) and application (valuation date). This indicates consistency in methodology and application.

[34] The 2014 assessment is reduced to \$52,810,000.

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF September 2014.



W. Kipp
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure (314 pages)
2. R1	Respondent Supplementary Disclosure (309 pages)
3. R2	Respondent Disclosure (478 pages)

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 ADMINISTRATIVE USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	OFFICE	HIGH RISE	INCOME APPROACH	RENTS, VACANCY, CAPITALIZATION RATE