



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:

Dundee Canada (GP) 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:	068052208
LOCATION ADDRESS:	435 – 4 Avenue SW, Calgary AB
FILE NUMBER:	75659
ASSESSMENT:	\$49,150,000

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:

- K. Gardiner Assessor, The City of Calgary
- C. Fox 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 completed and 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 Fourth & Fourth, a seven storey office building in the DT1 economic zone of downtown Calgary. The 1977 building with total area of 88,737 square feet occupies a commercial site with an area of 18,743 square feet. There are 83 parking stalls under the building. The building is connected to Calgary's +15 elevated walkway system.

[6] For assessment purposes, The City of Calgary puts this property into the "B" downtown office class. Assessments are prepared using an income approach. In that approach, the following input factors are used to arrive at a typical net operating income of \$2,457,621 which, when capitalized, yields the assessment which is truncated to \$49,150,000 (\$553.88 per square foot of building floor area):

Office (79,481 square feet): \$25.00 per square foot rent; 1.50 percent vacancy allowance; \$16.50 per square foot operating cost

Retail Levels 1 and 2 (8,566 and 690 square feet, respectively): \$22.00 per square foot

rent; 8.00 percent vacancy allowance; \$20.00 per square foot operating cost
\$4,800 annual rent per parking stall – no vacancy or operating cost allowance
2.00 percent non-recoverable operating expense allowance for all space types
Capitalization Rate: 5.00 percent

Issues:

[7] The Assessment Review Board Complaint form was filed on March 2, 2014 by Altus Group on behalf of Dundee Canada (GP) 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 subject property should be classified as a "B-" property rather than a "B". Reclassification would change the income approach input factors
- 2) The class "B" downtown office property capitalization rate should be increased from 5.00 to 5.50 percent

Complainant's Requested Value: \$40,430,000 (\$455.62 per square foot of building area)

Board's Decision:

[10] The CARB increases the "B" quality office capitalization rate to 5.50 percent, thereby reducing the assessment to \$44,680,000.

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.

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:**

[12] 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.

[13] The Respondent's quality classification guidelines consider such factors as location, physical condition, functionality, age, number of stories, total net rentable area, floor plate size, quantity of retail space, +15 connectivity, on-site parking capacity and building tenant amenities. The subject property was compared to other DT1 "B-" properties. Its physical characteristics fit

into the ranges for the class with only the exceptions of retail area and parking ratio. The subject has an excellent parking ratio but one factor alone does not warrant a class change. Perusal of the subject's rent roll shows that recent office leasing has been at rent rates from \$10.00 to \$34.00 per square foot. The averages of all leases and of seven of the most recent leases are \$19.57 and \$20.71 per square foot, respectively. Class "B" offices are assessed on the basis of a \$25.00 per square foot office rent and "B-" offices have a \$23.00 per square foot rate. This leasing status confirms that the subject should be in the "B-" class.

[14] The Respondent uses typical rent rates in the income approach for downtown office property assessments that are derived from multi-tenant office buildings. The vacancy rate should come from the same multi-tenant properties. The "B" to "B-" classification change would require the following input changes:

- 1) Office: \$23.00 per square foot rent rate instead of \$25.00
- 2) Office vacancy rate of 4.25 percent instead of 1.50 percent (the Complainant's vacancy study in "B-" properties indicated a rate of 4.25 percent rather than 4.0 percent as found by the Respondent)
- 3) Office operating cost of \$15.00 per square foot instead of \$16.50
- 4) No changes to retail or parking rates or non-recoverable expense rate

[15] The Respondent's typical rent rates used in the application of the income approach for downtown office property assessments are derived from multi-tenant office buildings. The vacancy rate should come from the same properties. In the "B-" study, however, the Respondent has included two owner/user properties that do not compete with multi-tenant properties for tenants. When the two properties (AGT Switching Building) and (Len Weary Building) are removed from the Respondent's vacancy study for DT1,8 "B-" properties, the vacancy rate increases from 3.75 to 4.09 percent. The difference between the two rates is 0.34 percent. If that is added to the Respondent's 4.0 percent rate and rounded to the nearest one quarter percent, the correct vacancy rate is 4.25 percent. This is a minimal change but it is consistently and correctly derived.

[16] 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.

[17] 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.

[18] 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.

[19] 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.

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

Respondent's Position:

[21] 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 75659. Exhibit R2 is specific to 75659.

[22] The subject property is properly classified as a "B" quality office property. It has a good DT1 location, +15 connectivity, a high ratio of retail space and an excellent parking to floor space ratio. In fact, the parking ratio is better than that in most "A" and "AA" class properties. Third party market analysts such as Cresa Partners and Altus Insite show it as a "B".

[23] A study of vacancies in nine DT1, 8 "B" office properties indicated an overall vacancy rate of 1.51 percent which was rounded to 1.50 percent. Five of the properties had zero percent vacancy. The Complainant wants the subject property to be reclassified to a "B-" quality with a vacancy rate of 4.25 percent. The Complainant did not contest the 1.50 percent vacancy rate applied to "B" properties.

[24] 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.

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

[26] 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. The Complainant has analyzed office rents but not other rents such as retail, storage and parking.

[27] 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:

[28] The CARB confirms the subject property classification as a "B" downtown office. Its physical characteristics fit it into either a "B" or "B-" class for the most part. It does have a good DT1 location, +15 connectivity and an exceptionally good parking ratio. As was argued by the Respondent, leasing within the subject is not the sole determinant of class. While there were seven leases in 2012-2013, the rates ranged from \$16.00 (July 2012) to \$24.00 (March 2013) per square foot of office area. In prior years, rates were as low as \$13.00 per square foot (2010) and as high as \$34.00 per square foot (2009). 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 whole of the evidence did not support a change of class.

[29] 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 classification.

[30] 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 which 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.

[31] 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.

[32] The 2014 assessment is reduced to \$44,680,000.

DATED AT THE CITY OF CALGARY THIS 10 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
2. R1 (Common to this and other files)	Respondent Disclosure
3. R2	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 ADMINISTRATIVE USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARD	OFFICE	HIGHRISE	INCOME APPROACH	VACANCY CAPITALIZATION RATE