



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:

BCIMC REALTY CORPORATION (as represented by Altus Group), COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

H. Kim, PRESIDING OFFICER

J. Mathias, BOARD MEMBER

A. Zindler, BOARD MEMBER

This is a complaint to the Calgary 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:

| | |
|--------------------------|----------------------|
| ROLL NUMBER: | 067079285 |
| LOCATION ADDRESS: | 701 8 Ave SW |
| FILE NUMBER: | 76125 |
| ASSESSMENT: | \$497,880,000 |

This complaint was heard on the 15th day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *S. Meikeljohn, Altus Group*
- *D. Hamilton, Altus Group*

Appeared on behalf of the Respondent:

- *J. Young, Assessor*
- *D. Zhao, Assessor*

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

[1] The subject property was one of three A class office buildings and two A- class office buildings in downtown Calgary under complaint by the Complainant's representative. All five complaints had similar issues and argument to be considered. Upon agreement between the Complainant and Respondent, it was agreed that one of the properties be considered in detail and the presentations be carried forward to the other complaints with small modifications to the submissions based on site specific details. The Board agreed to proceed on that basis and the evidence in the subject order was presented in detail for CARB75691P-2014.

Property Description:

[2] The subject is a class A property in the Non Res DT2 Sub Market area of downtown Calgary known as Western Canadian Place. It consists of two office towers on a retail podium constructed in 1981 on a 65,599 square foot (sf) parcel of land. It is assessed on the income approach to value using the City's 2014 parameters for A class office buildings in DT2: 1,049,193 sf office space at a market net rental rate of \$28.50/sf, 9,561 sf retail level 1 and 15,810 sf retail level 2 at \$24/sf, 5,404 sf retail level 3 at \$20/sf, 140 sf ATM at \$150/sf and 18,460 sf recreational space at \$18/sf, and 153 parking stalls at \$5,700 per annum, for a potential net income of \$31,844,365. Vacancy of 5% for office, 8% for retail, 2% for recreational and 0% for parking and ATM is deducted. Vacant space shortfall based on operating costs of \$19/sf office, \$20/sf retail, \$14/sf recreational are also deducted and 2% non recoverables are applied. The resulting net operating income (NOI) is capitalized at 5.75% to arrive at the assessment under complaint.

Issues:

[3] The Complaint form listed a number of issues as Reason(s) for Complaint, however at the hearing the only issues argued were:

1. The office rental rate should be \$28/sf not \$28.50/sf
2. The office vacancy allowance should be 9%, not 5%
3. The parking vacancy should be 2% not 0%
4. The capitalization rate should be 6% not 5.75%

Complainant's Requested Value: \$397,260,000 revised to \$436,230,000 at the hearing

Board's Decision:

[4] The assessment is confirmed at \$497,880,000.

Issue 1 – Office Rental Rate**Complainant's Position:**

[5] The Complainant submitted that the 2014 office rental analysis for A class DT2, 3 and 9 was based on 9 rental rates in three buildings: the subject, Encor Place and Plains Midstream that resulted in a weighted average of \$28.50 which was used in the income parameters. The Complainant suggested that two buildings, AMEC Place and First Alberta Place, used in the A-class analysis should have been included in the A class rental analysis. In support of this position, the Complainant stated that both buildings had characteristics that would put them on the cusp between A and A- but that recent leasing activity in the two buildings were in the range of Class A rental rates.

[6] If AMEC Place and First Alberta Place are reclassified as A buildings and included in the rental analysis, the weighted average supports the requested rental rate:

| Property Name | Address | Lease start | Lease Term | Lease Area | Lease rate |
|-------------------------|-------------|-------------|------------|------------|--------------|
| Encor Place | 645 7 AV SW | 7/1/2012 | 5 | 13,749 | 28.50 |
| Encor Place | 645 7 AV SW | 10/1/2012 | 3 | 13,750 | 22.00 |
| Plains Midstream | 607 8 AV SW | 9/1/2012 | 3 | 19,850 | 33.00 |
| Plains Midstream | 607 8 AV SW | 10/1/2012 | 10 | 9,265 | 28.75 |
| Western Canadian Place | 701 8 AV SW | 10/1/2012 | 5 | 2,240 | 30.00 |
| Plains Midstream | 607 8 AV SW | 11/1/2012 | 5 | 1,182 | 32.75 |
| Western Canadian Place | 701 8 AV SW | 12/1/2012 | 5 | 1,544 | 31.00 |
| Encor Place | 645 7 AV SW | 2/1/2013 | 5 | 5,970 | 23.50 |
| Encor Place | 645 7 AV SW | 3/1/2013 | 5 | 3,373 | 33.00 |
| First Alberta Place | 735 8 AV SW | 7/1/2012 | 5 | 2,202 | 30.00 |
| First Alberta Place | 735 8 AV SW | 8/1/2012 | 7 | 14,489 | 30.00 |
| First Alberta Place | 735 8 AV SW | 9/1/2012 | 5 | 32,297 | 23.50 |
| First Alberta Place | 735 8 AV SW | 11/1/2012 | 5 | 7,088 | 31.00 |
| First Alberta Place | 735 8 AV SW | 12/1/2012 | 5 | 57,956 | 28.00 |
| AMEC Place | 801 6 AV SW | 2/1/2013 | 5 | 15,908 | 27.00 |
| AMEC Place | 801 6 AV SW | 3/1/2013 | 4 | 4,564 | 27.00 |
| First Alberta Place | 735 8 AV SW | 3/1/2013 | 3 | 573 | 30.00 |
| First Alberta Place | 735 8 AV SW | 3/1/2013 | 5 | 7,770 | 34.00 |
| Weighted Average | | | | | 27.87 |
| Mean | | | | | 29.06 |
| Median | | | | | 30.00 |

[7] It is not unusual for buildings to be reclassified. In 2012, Altius Centre at 500 4 Ave SW was classified as a B building. It sold in March 2012 and was reclassified as an A building for the 2013 assessment. Calgary Place/Metropolitan Centre at 333 4 Ave SW was classified as an A- building in 2012. It sold in May 2012 and was reclassified as an A building in 2013.

Respondent's Position:

[8] The Respondent disputed that AMEC Place and First Alberta Place were A class buildings, and they were properly classified as A-. The Respondent presented CARB 2059/2010-P and pointed out that for the 2010 and 2011 assessments, the Complainant had argued that AMEC Place should be classified as a B building, due to the rents that were being achieved at that time. Properties are sometimes reclassified when they sell, because the restratification may provide a better estimate of market value.

[9] The Respondent noted that if Encor Place were to be reclassified as A- due to its current leasing, rental rates for both A class and A- class would go up. There is no basis on which to reclassify the two buildings, and to arbitrarily reclassify based on current rental performance would disturb assessments in the downtown area.

[10] The 2014 A Class office rental analysis grouped DT2, 3 and 9 into the same category and results in a mean of \$29.17, a median of 30 and a weighted average of 28.50. The 2014 DT2 Class A rental rate is 28.50.

Decision on Rental Rate

[11] The rental rate is unchanged at \$28.50.

Reasons

[12] The Board finds that changing building classification on an annual basis based on leasing activity would create chaos in assessment. Lease rates within a particular building can vary from year to year: in 2010 and 2011, AMEC Place was classified as an A building but was achieving less than typical Class A rents. It appears that in 2013 it was achieving better than typical Class A- rates. The Board finds that reclassifying buildings annually based on the previous year's rental performance would be contrary to the legislated requirement of mass appraisal.

[13] Further, even with the reclassification of the two buildings, the Complainant's weighted average is \$27.87 but the mean and median are \$29.06 and \$30.00 respectively. These rates do not convince the Board that the rental rate should be changed from \$28.50 to \$28.

Issue 2 – Office Vacancy Allowance

Complainant's Position:

[14] The Complainant stated that the Respondent's vacancy analysis included the Calgary Courts Centre and the Municipal Building, which had not been included in the 2013 study. The Complainant suggested that institutional buildings that are owned by government would never come vacant and should not be included in a vacancy study. The Complainant noted that their rental rates were not included in the rental rate study. DT2, 3 and 9 are grouped for analysis purposes. The 2014 vacancy rates for Class A was based on six buildings:

| Building Name | Address | Type | 2013 Study | | | 2014 Study | | |
|--------------------|-------------------|--------------|------------|--------|------|------------|---------|------|
| | | | Total area | Vacant | % | Total area | Vacant | % |
| Eight West | 903 8 Av SW | Multi tenant | 130,161 | 8,979 | 6.9 | 130,174 | 16,267 | 12.5 |
| Calgary Courts | 601 5 St SW | Owner/User | | | | 922,756 | - | |
| Encor Place | 645 7 Av SW | Multi tenant | 357,876 | - | | 357,876 | - | |
| Municipal Building | 800 Macleod Tr SE | Owner/User | | | | 750,994 | - | |
| Plains Midstream | 607 8 Av SW | Multi tenant | 228,743 | - | | 227,140 | - | |
| Western Cnd Pl | 701 8 Av SW | Multi tenant | 1,048,870 | 9,121 | 0.87 | 1,049,193 | 150,110 | 14.3 |

[15] The average vacancy is 4.84% and was the basis for the 5% vacancy applied in the income parameters. With the Calgary Courts and Municipal Building removed, the total area is 1,764,383 sf and the vacancy rate increases to 9.43%. If AMEC Place and First Alberta Place are reclassified to A and are included, the total area is 2,454,897 and total vacancy is 218,338 for a vacancy rate of 8.89%.

[16] Market value is based on the value of multi-tenant buildings. Government buildings are in a different category and should not be included. Therefore, the Complainant argued that the

vacancy rate should be increased from 5% to 9%.

Respondent's Position:

[17] The Respondent stated there was no compelling reason to eliminate government buildings from the vacancy study. They are occupied and are part of the overall market. If government buildings were removed then other single tenant buildings should also be removed. The vacancy rate should reflect the overall amount of space that is available for lease. Government has space needs as well, and participates in the marketplace. For example, the ARB is in space leased by the City in a non-owned building, and the Municipal Building has retail space leased to third parties on the main floor. The Crown Prosecutor also leases space outside the Calgary Courts Centre.

[18] Further, government buildings do trade in the marketplace. The Respondent presented the 2007 sale and leaseback of the Harry Hays building to demonstrate this point. There would be nothing to prevent the City from selling the Municipal Building and leasing it back.

Decision on Office Vacancy Allowance

[19] The vacancy allowance is unchanged at 5%.

Reasons

[20] The Board agrees that government bodies do participate in the marketplace, and should be included in the vacancy study. If the analysis were to exclude government buildings and single tenant buildings, it would not reflect the marketplace. Further, if this approach were to be adopted, it could be argued that single tenant buildings should have 0% vacancy adjustment applied since single tenant buildings are generally fully occupied. In the opinion of the Board, this approach would not be consistent with the legislated requirement for mass appraisal.

Issue 3 – Parking Vacancy Allowance**Complainant's Position:**

[21] The Complainant stated that in every previous year, a 2% vacancy allowance was applied to parking. Analysis of sales to determine capitalization rates were based on typical income parameters including 2% parking vacancy. It is a constant, similar to non-recoverables, and should not be eliminated.

Respondent's Position:

[22] The Respondent stated the 2% allowance was eliminated because there is no parking vacancy in the downtown zones. The Respondent disputed that it was a constant, and stated there was no evidence that 2% should be applied.

Decision on Parking Vacancy Allowance

[23] The parking vacancy allowance is unchanged at 0%.

Reasons

[24] The Complainant presented no evidence that an actual parking vacancy existed and relied on the contention that it was a constant, like non-recoverables. The Board is of the opinion that the two are not analogous: there are expenses incurred by the landlord that cannot be recovered from the tenant on a net lease, whereas the application of parking vacancy would appropriately be based on an analysis to determine typical vacancy rates.

[25] The Board accepts the Respondent's position that there is no parking vacancy in the downtown, and in the absence of contrary evidence, determined that it was reasonable to set

the vacancy allowance at zero.

Issue 4 – Capitalization Rate

Complainant's Position:

[26] The Complainant stated there were no sales in 2013, therefore there are no sales to support a change in the cap rate and the 6% applied in 2013 should remain. The Respondent used five sales between January and June 2012, while the Complainant argued that an additional sale at 520 5 Ave SW should be included. The Respondent considers 520 5 Ave SW to be a class B building, however the Complainant presented the 2008 and 2009 Assessment Explanation Supplements to show that it had been considered a A class building in those years. Further, it was achieving A class rents of \$31/sf around the time of sale. The Complainant presented six sales in DT1 and DT2 between January 2012 and November 2012 and provided an analysis of the six sales to show lease rates for each property around the sale date, and revised the NOI of sales in the latter part of 2012, arguing that the 2013 assessment parameters were a better estimate of NOI at the time of sale.

| Zone | Building Name | Address | AYOC | Qual | Building Area sf | Sale Date | Sale Price | Price/sf | NOI (revised) | Cap Rate |
|------------------|---------------|-------------|------|------|------------------|-----------|-------------|----------|---------------|----------|
| DT1 | Scotia Centre | 225 7 AV SW | 1975 | A | 612,853 | 1/26/12 | 280,000,000 | 456.88 | 15,786,873 | 5.64 |
| DT1 | Altius Centre | 500 4 AV SW | 1973 | A | 306,666 | 3/9/12 | 179,750,000 | 586.14 | 9,307,570 | 5.18 |
| DT2 | Trimac House | 800 5 AV SW | 1982 | A - | 238,247 | 5/11/12 | 100,907,000 | 423.54 | 6,075,133 | 6.02 |
| DT1 | Calgary Place | 333 4 AV SW | 1968 | A | 607,578 | 5/18/12 | 312,000,000 | 513.51 | 15,872,755 | 5.09 |
| DT2 | Eight West | 903 8 AV SW | 2007 | A | 139,552 | 6/21/12 | 65,745,000 | 471.11 | 3,703,102 | 5.63 |
| DT1 | 520 5 AV SW | 520 5 AV SW | 1981 | A | 193,805 | 11/1/12 | 98,200,000 | 506.69 | 6,066,000 | 6.18 |
| Weighted Average | | | | | | | | | | 5.48 |
| Maximum | | | | | | | | | | 6.18 |
| Minimum | | | | | | | | | | 5.09 |
| Mean | | | | | | | | | | 5.62 |
| Median | | | | | | | | | | 5.64 |

[27] The Complainant argued that the revised typical NOI compared to sale price indicates that the cap rate should remain at the 2013 rate of 6%.

Respondent's Position:

[28] The Respondent stated that the cap rate went down because sales in 2011 that had been included in the 2013 cap rate study would not have been included in the 2014 study. The Respondent presented the 2014 Cap Rate analysis for downtown A buildings. The median is 5.63% and the mean is 5.45%. The assessed cap rate is 5.75% and supported by the sales.

[29] Further, the cap rates in the Complainant's study have a mean and median of 5.62% and 5.64%. This demonstrates that the 5.75% applied is correct.

Decision on Capitalization Rate

[30] The capitalization rate is unchanged at 5.75%.

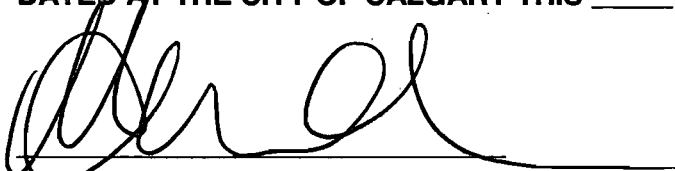
Reasons

[31] Even with the sale at 520 5 Ave included, the cap rates based on Complainant's adjusted NOI supports the 5.75% cap rate applied.

Board's Reasons for Decision:

[32] The Board determined no changes to the income parameters should be applied and that the assessment should be confirmed.

DATED AT THE CITY OF CALGARY THIS 14th DAY OF August 2014.

A large, stylized handwritten signature in black ink, appearing to read 'H. Kim', is written over a horizontal line.

H. Kim

Presiding Officer

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

| NO. | ITEM |
|------------|------------------------|
| 1. C1 | Complainant Disclosure |
| 2. R1 | Respondent Disclosure |
| 3. C2 | Complainant Rebuttal |

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 Only

| Property Type | Property Sub-Type | Issue | Sub-Issues |
|----------------------|--------------------------|-----------------|--|
| (3) Office | High Rise | Income Approach | Expenses Net Market Rent Capitalization Rate |