



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:

**1024253 Alberta Ltd. (as represented by Avison Young Property Tax Services),
COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**K. Thompson, PRESIDING OFFICER
P. Grace, BOARD MEMBER
P. Pask, 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: 068035302

LOCATION ADDRESS: 100 4 Av SW

FILE NUMBER: 76655

ASSESSMENT: \$24,550,000

This complaint was heard on 17 day of June, 2014 at the office of the Assessment Review Board located at Floor Number 4 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *C. Hartley* *Agent, Avison Young Property Tax Services*
- *A. Farley* *Agent, Avison Young Property Tax Services*

Appeared on behalf of the Respondent:

- *S. Gill* *Assessor, City of Calgary*

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

[1] No procedural or jurisdictional issues were raised. The Board continued to hear the merits of the complaint.

Property Description:

[2] The subject property, known as The Asia Pacific Centre is located at 100 4 Av SW, on the corner of 4th Avenue and Centre Street downtown. The subject building was constructed in 1980 and has office space from the fourth floor to the tenth floor with retail and quasi retail on the first three floors (a TD Canada Trust branch occupies much of the main level). The building is comprised of:

- 1) Office - 78,344 square feet (sf) @ \$16.00 per square foot (psf)
- 2) Retail ,main and second level - 14,492 sf @ \$16.00 psf
- 3) Retail, third level - 4,484 sf @ \$12.00 psf
- 4) Parking - 48 stalls @ \$3600 per stall

[3] The subject property is assessed using the income method of valuation and has a capitalization rate of 5.75%. This property has 9% vacancy rate for the office portion and 8 % for the retail portion.

Issues:

[4] The vacancy rate for the office portion of this building should be 25%.

Complainant's Requested Value: \$17,980,000

Board's Decision:

[5] Assessment is confirmed at \$24,550,000.

Legislative Authority, Requirements and Considerations:

[6] By the Act, Section 460.1(2), subject to Section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in Section 460.950 that is shown on an assessment notice for property, other than property described in Subsection (1)(a).

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

[7] The Complainant stated that the office space in this property suffers from significant chronic vacancy concerns, and this should be reflected in the assessed value. The vacancy for the office space in this building should be 25%.

[8] The Complainant provided the property assessment details, calculations and photos [C1, pg 10-21].

[9] The Complainant contends that this property's office space has seen chronic vacancy for over a three year period and that with this evidence it should be given a 25% vacancy allowance. A chart with the subject vacancy by year including July 2011, July 2012 and July 2013 was provided [C1, pg 23] showing total vacant space and total office space. The percentage of vacant to total space was shown as:

- 1) July-2011 24.0%,
- 2) July-2012, 58.8%,
- 3) July-2013 54.7%.

[10] The Complainant further provided a chart with the suite listings in the subject property, reportedly provided from Bow Property Management and Leasing, to show the vacant suites as of the month of July for the three years (2011 to 2013) [C1, pg 24].

[11] The Complainant provided the proposed calculations for the requested assessment [C1, pg 26].

[12] The Complainant explained that this property had two tenants that had vacated the property who had occupied a large amount of floor space, one of these was the Calgary Police Service.

[13] A number of CARB Board decisions were presented for the Board's consideration along with the 2012-213 BOMA Calgary Building Guide [C1, pg 28-39].

Respondent's Position:

[14] The Respondent provided details on the Assessed value along with the assessment calculations, a location map and photographs [R1, pg 8-20]. The 2013 and 2014 Office Rental Rate Summary were also provided [R1, pg 22].

[15] The Respondent put the 2014 Office Vacancy Summary and the C & C- DT2,3,9 Office Vacancy Rate analysis into evidence [R1, pg 24-25]. The Respondent pointed out that the

vacancy rate study showed 25 - C and C- Class buildings, including the subject building, with vacancy ranging from 0% to 63%. Six of the properties have a vacancy over 20% and the subject shows as having a vacancy of 26.41%, not the 54.7% indicated in the Complainant's evidence. The Respondent questioned the Complainant as to where the information on the subjects vacancy came from and the Complainant responded that it was from the landlord. The Respondent noted there was nothing to show that this information was an official document, nor was the information on company letterhead to show who provided it. The Respondent also asked why the large vacancy existed. The Complainant's only response to that was that it wasn't a great building.

[16] The Respondent pointed out that the vacant suite space shown in the Complainant's evidence did not show any suite being consistently vacant over the three year period. The Respondent provided the three years of Assessment Request for Information for the subject property to further illustrate this point [R1, pg 30-64].

[17] 2014 Downtown Office A Class Equity charts were provided [R1, pg 27] showing the C Class building in DT1/8 and DT2/3/9 market areas. There are 25 properties in the DT2,3,9 market area that are assessed the same as the subject property.

[18] The Respondent also provided the 2014 Downtown Office Assessment /sf chart [R1, pg 28].

Complainant's Rebuttal:

[19] The Complainant's rebuttal document contained Board Decisions: CARB 0655-2012P, CARB 1114-2012P, CARB 1115-2012P, CARB 1820-2011P, 0098 721/11, 2014 City of Edmonton document titled Mass Appraisal and Single Property Appraisal, CARB 1575-2011P, MGB140-01, QB decision Mountain View County vs. Alberta (Municipal Government Board).

Board's Reasons for Decision:

[20] The Board reviewed the evidence provided by both parties and will limit its comments to the relevant facts pertaining to this case.

[21] The Board paid particular attention to the Respondent's typical vacancy analysis, the subject property Assessment Request for Information Requests, the Complainant's three year subject property analysis, including the suite analysis.

[22] In the Respondent's typical vacancy analysis the Board noted that there was a reasonable sample size of 25 properties for the analysis, and that of the 25 properties the range was from 0% vacancy to 63.88 %. It was also noted by the Board that the subject property's vacancy was included as part of the study and that it differed significantly from the vacancy reported by the Respondent. Neither party indicated to the Board whether the building was being actively marketed, whether the vacant space was in marketable condition, whether any of the floors were undergoing renovations, if the requested rents were reasonable, or if it was under normal management. The Complainant did indicate that two large tenants had moved out.


[23] The Board was unclear as to why this property had high vacancies, and the evidence was inconsistent at best. The vacancy rate of the subject was considered in the development of the overall vacancy rate, and is well within the range of vacancies used in that analysis.

[24] The Board finds insufficient evidence to alter the typical vacancy rate for the Class C office space applied to this property.

[25] The Board notes that while it is not bound by previous Board Orders, it did consider those that were submitted but its decision is based on the evidence before it.

[26] The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 11th DAY OF July 2014.



K. Thompson

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.*

Property Type	Property Sub-Type	Issue	Sub issue
office	High rise	Income Approach	Vacancy rate