



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:

***Fifth Avenue Gp Inc. (as represented by Avison Young Property Tax Services),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

<i>K. Thompson,</i>	<i>PRESIDING OFFICER</i>
<i>P. Grace,</i>	<i>BOARD MEMBER</i>
<i>P. Pask,</i>	<i>BOARD MEMBER</i>

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:	068049907
LOCATION ADDRESS:	222 5 Av SW
FILE NUMBER:	76924
ASSESSMENT:	\$854,280,000

This complaint was heard on 16 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:

- D. Zhao 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 5th Avenue Place, is a large two tower complex with connecting retail on the bottom two levels and for assessment purposes is classed as an A office building. Each of the towers is 35 floors high. This property is located at 222 5 Av SW in the downtown core (DT1 non residential market area).

[3] The complex, built in 1980, is assessed as having :

- | | |
|-----------------|--|
| 1) Office - | 1,433,140 square feet (sf) @ \$31.00 per square foot (psf) |
| 2) Retail - | 37,741 sf @ \$27.00 psf |
| 3) Food court - | 5,639 sf @ \$125.00 psf |
| 4) ATM - | 18 sf @ \$150.00 psf |
| 5) Storage - | 11,263 sf @ \$10.00 psf |
| 6) Parking - | 791 stalls @ \$500 per stall |

[4] The subject property is assessed using the income method of valuation and has a capitalization rate of 5.75%.

Issues:

[5] The value of the office portion of the subject property would better reflect market if it were based on a rental rate of \$27.00 psf.

Complainant's Requested Value: \$757,560,000

Board's Decision:

[6] Assessment is confirmed at \$854,280,000.

Legislative Authority, Requirements and Considerations:

[7] 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:**

[8] The Complainant argued that the office space in these buildings should be valued at the rate of \$27.00 psf rather than the \$31.00 rate used by the City. The Complainant stated further that the typical office leasing rates of \$27.00 psf better fits this and similar vintage multi tower office complexes.

[9] The Complainant stated that the request to reduce the office rate was intended for this property in particular and not a global request or contention that the A class office rate was incorrect. The A Class office space, in the downtown core, lease for a range of rates and based on the leasing performance of this property, the rates were at the lower end of the range. Based on the Complainants interpretation of Board Order: MGB 140/01, the subject property should fit into an acceptable range of economic performance for similarly classed properties without providing an arbitrary rate for the entire classification. Leasing within the subject building should be the best evidence for market rents for this property. This should therefore be the appropriate rate applied to this building to calculate market value. The Complainant presented the assessment details, calculations and photographs of the subject property [C1, pg 12-17].

[10] When selecting lease data, the Complainant argued that the five current leases in the subject property [C1, pg 19] showed the best potential rental rates for the office space. These leases had a range of \$25-\$40 psf, with a median of \$30.00 psf and a weighted mean of \$26.63 psf and occupied 333,110 sf in the East Tower, representing 46% of the total rentable area of the East Tower. Leasing information was provided through the City of Calgary Assessment Request for Information dated February 27, 2013 and Brookfield Rent rolls dated April 3, 2013 [C1, pg 22-64].

[11] The Complainant provided leasing activity in three A Class office buildings similar to the subject being older office buildings with two towers, retail on the main, large floor plates with over a million sf of leasable area with more than one tower. A total of 40 leases, including the subject leases, were listed. The weighted mean was \$28.73 psf, the mean \$30.60 psf, the median \$31.00 psf, the range \$21.00 psf to \$43.00 psf [C1, pg 65]. Photographs of the Complainant's three comparables were provided, [C1, pg 72-73].

[12] The City's 2014 A DT1,8 Office Rental Summary was also presented [C1, pg 67-70]. This included 86 leases with a weighted mean of \$31.02 psf, mean of \$29.07 psf, median of \$32.00 psf, and a range of \$14.00-\$46.00 psf, and included leases from 15 properties (Bow Valley Square 1-4 counted as 1 property).

[13] The Complainant made comment that Gulf Canada Square, the only other Class A property with net rentable area over a million sf was not included as a good comparable as it isn't a twin tower property. The Complainant included its leasing information [C1, pg 75] to show that properties with over a million sf of leasable area rent for lower rates than the typical assessed rate of \$31.00 psf for this class. This property showed 19 leases from August 2012 to January 2013 with a weighted mean of \$21.63 psf.

[14] Calculation of the proposed assessment was provided [C1, pg 79].

[15] A number of Board Orders were presented – MGB 140/01 AND 045/09, CARB 70160P-2013.

Respondent's Position:

[16] The Respondent provided details on the Assessed value along with the assessment calculations [R1, pg 6-8], along with a location map and photographs [R1, pg 9-13]. The 2014 Office Rental Rate Summary and the 2014 A DT1 Office Rental Analysis were also provided [R1, pg 15-18].

[17] The City's 2014 Downtown A Capitalization Rate study was included. The Respondent argued that the capitalization rate was based on a multiplicative formula and the rental rate was the typical rate rental rates based on the group of 86 leases. If the sample size for the rental rates was reduced to only 40 leases, causing the typical rental rates to change, then the capitalization rate would also have to be recalculate [R12, pg 21].

[18] The 2014 Downtown Office A Class Equity charts were provided [R1, pg 23] showing the A Class building in DT1/8 and DT2/3/9 market areas. There are 19 properties in the DT1 market area that are assessed the same as the subject property.

[19] The Respondent also argued that a number of elements go into determining class of an office building, not just leasable space and number of towers. To illustrate this, the Respondent included the City's Assessment Range of Key Factors, Component & Variables – 2014 Office document [R1, pg 25]. The Respondent noted that under point 2 of this document it reads that Class criteria are location within the market area, condition, building functionality, number of floors, total rentable area, floor plate, type and quality of construction, parking availability and capacity, quantity of retail space, tenant amenities, rent generating capability.

[20] The Respondent presented two CARB Board Orders, 1446 2012-P and 1331 2011-P being the 2011 decision for the subject property [R1, pg 32-45].

Complainant's Rebuttal:

[21] The Complainant contends that prior to this year the City split the Class A office building analysis to account for the differences of the new and old buildings. This was not the case in 2014. All A Class offices were analysed together and that, stated the Complainant, is to the detriment of his client. To show this, the Complainant provided leases for those A Class offices in DT1 market area that were considered new buildings, with the intent of comparing those to the group of office buildings the subject is similar to, those buildings that the Complainant refers to as the vintage A Class offices. The five leases from the new A Class office buildings range from \$34.00 psf to \$40.00 psf. The Complainant noted that all of these leases are above the median rental rate established for the A Class group of properties and provided photographs and BOMA information [C2].

[22] Referencing the Capitalization Rate Study in the Respondent's disclosure [R1, pg 21] the Complainant calculated the five sale properties into sale price per square foot. The Complainant then pointed out that their requested value for the subject property was in fact in the middle of the range of the sale properties in the DT1 market area. That sale property range is \$423.54 to \$586.14 psf, and the subject property requested value is \$ 509.18 psf. The 2014 assessed value of the subject is \$574.18 psf which is at the highest end of the range of sale prices.

[23] The Complainant included CARB Board Order 2194 2011-P.

Board's Reasons for Decision:

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

[25] The Subject property seems to be a reasonable representation of assessment class and equitable to the surrounding properties. Nothing unique or underperforming was brought forward with regards to this particular property, which is also in a good location. The subject property is in a well established economic zone in the downtown core and this subject's placement in this zone was not challenged by the Complainant. The Board finds no cause to suggest that a sub group of A Class buildings within this zone should have its own rental rates instead of the typical for that area. Nor does the Board find that it would be desirable to reduce the sample size of rents to determine typical rent. 86 leases from 15 properties, is a good sample size. No reason was seen to reduce this to 40 leases, from 3 buildings. Typical values will always have a range from high to low.

[26] The Board finds that the rental information submitted by the Respondent does support the \$31.00 psf rate that was used to create the assessed value. To reach a typical rent the Board agrees that the rents from all the buildings in this class need to be considered. When reviewing the subject property, the Board notes that the Complainant does not have any objection to the A Classification of this property and states that rental history is typical. The Board also notes that the subject property's range of rents over the 2012 and 2013 period fall within the range of rents shown in the City's rental analysis for the A Class offices in the downtown. A Class range is \$14.00 psf to \$46.00 psf, typical rate is \$31.00 psf. Current building leases of the subject property (East tower only) show a range of \$25.00 psf to \$40.00 psf with a typical rental rate of \$27 (based on the weighted mean, median is at \$30.00).

[27] The Board finds insufficient evidence to alter the typical rents applied to this property.

[28] 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.

[29] The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 14th 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	Complainants 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	Rental Rates