



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:

**SEC GP INC., C/O BROOKFIELD PROPERTIES MANAGEMENT CORPORATION
(as represented by Avison Young), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

***S. Kashuba, PRESIDING OFFICER
A. Wong, BOARD MEMBER
J. Pratt, 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:	068054998
LOCATION ADDRESS:	117 – 5 Avenue SW
FILE NUMBER:	76938
ASSESSMENT:	\$1,108,710,000

This complaint was heard on the 6th day of August, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

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:

- H. Neumann Assessor

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 is a Class AA- office building consisting of two towers of 32 storeys and 52 storeys on an atrium base located in the downtown (DT1) district of the City. Currently known as the Suncor Energy Centre East & West Tower, the construction of the subject was completed in 1983 - 1984.

[3] The assessment is based on the income approach to value with 1,738,641 square feet of net rentable area, consisting of 1,715,469 square feet of office space in both towers, 22,462 square feet of retail space on multiple floors from the basement to the second floor. The storage component consists of 694 square feet, with 849 parking stalls at \$6000 per annum and 694 square feet of storage space at \$12 per square foot.

[4] The spaces allocated to the ATM, the food court, retail outlets on levels 1 and 2, and the storage space, are not at issue. Nor at issue is the application of typical vacancy rates for the various space types, vacant space shortfall, and any allocations to non-recoverables.

[5] At issue is the rental rate of \$35.00 per square foot for the office space. An NOI of \$64,098,963 is determined, to which is applied a capitalization rate of 5.75% to arrive at a capitalized value of \$1,114,764,574. This capitalized value is reduced by \$6,050,000, for areas that are exempt from taxation, for an assessed value of \$1,108,710,000.

Issue:

[6] The Complainant, in their Assessment Review Board Complaint form, identified a number of issues; however, only one issue is being contested. The Complainant is of the opinion that the City's application of a typical lease rate of \$35.00 per square foot to the subject is excessive and should be reduced from \$35.00 per square foot to \$33.50 per square foot.

Complainant's Requested Value: \$1,065,290,000.

Board's Decision:

[7] It is the decision of the Board to confirm the assessment of the subject property for 2014 at \$1,108,710,000.

Position of the Parties

Complainant's Position:

[8] The subject property is the oldest of the properties assessed as a class AA-, a classification dominated by buildings in the same sector of the City. For example, Bankers Hall, constructed in 1989, is a newer building, as is TransCanada Pipeline Building, constructed in 2001. However, these two buildings are assessed using the same rental rate as the subject at \$35.00 per square foot. Since these two comparables are newer and of superior quality, it follows that the subject property should be assessed at a rental rate below \$35.00 per square foot.

[9] The subject property shares its most salient characteristics with buildings assessed as Class A properties which are assessed at \$31.00 per square foot. These properties include the Fifth Avenue Place, Bow Valley Square 3 & 4, and the First Canadian Centre.

[10] Suncor Energy leases most of the space in the Suncor Energy Centre with the majority of the lease terms that were negotiated in 2009. The rental rate is \$28.00 as is, with a \$55.00 tenant improvement allowance (additive) when improvements commence, which is amortized over the remaining term (Exhibit C-1, page 3).

[11] By applying a rental rate of \$33.50 per square foot in the Pro Forma (Exhibit C-1, page 12) in place of the \$35.00 rate, one arrives at a revised NOI and an assessed value of \$1,065,290,000.

[12] Leases in place in the subject (Exhibit C-1, page 18 – 19) indicate a mean of \$30.16, a median of \$28.75, and a weighted mean of \$30.06. Recent leases reflect a weighted mean of \$33.53 per square foot (Exhibit C-1, page 20).

[13] A comparison of 17 leases in Class AA- buildings (Exhibit C-1, page 74) indicate a weighted mean of \$33.78 per square foot. However, within these comparisons, it is noted that 7 of these occurred within the Suncor Energy Centre and reflect lease terms of 15 and 16 years as opposed to the comparables which have significantly shorter, and perhaps reflect more recent lease terms.

[14] A summary of 9 recent leases for Class AA- buildings in DT1 indicate a weighted mean of \$35.21 per square foot (Exhibit C-1, page 75).

[15] Rental comparables for Class A buildings in DT1 indicate a weighted mean of \$31.00 (Exhibit C-1, pages 81 – 86).

Respondent's Position:

[16] The subject property is valued on the income approach using typical AA- class assessment parameters. This results in an estimate of taxable value of \$1,108,710,000 as of the valuation date of July 1, 2013.

[17] In support of the assessment, the Respondent presented a Pro Forma (Exhibit R-1, pages 18 – 19) which sets out the potential net income derived from the ATM, Food Court, Office Space, Parking, Retail Level 1, Retail Level 2, and Storage. Adjustments to the potential net income are taken from typical vacancy rates, operating costs, and non-recoverables.

[18] To the NOI of \$64,098,963 is applied a capitalization rate of 5.75%, for a capitalized value of \$1,114,964,574. From this value is deducted \$6,050,000 for areas which are exempt from taxation for an assessed value of \$1,108,710,000 (Exhibit R-1, page 19).

[19] The impressive Suncor Energy Centre, at 214.9 metres in height, is the second tallest building in the City (Exhibit R-1, pages 25 - 26) and is correctly classed as an AA- building.

[20] The Respondent's Request for Information (RFI) from the Complainant presents the number of underground stalls and associated costs, leases and terms of leases (Exhibit R-1, pages 27 – 76) for the two Suncor buildings.

[21] The lease information from the subject building, taken from the RFI, (also presented in Exhibit C-1), reflects a calculated weighted mean of \$33.53 (Exhibit R-1, page 91).

[22] The Suncor Energy Centre's two buildings are included in the Downtown Office Inventory (Exhibit R-1, page 90). The subject is rated as Class AA- by the Respondent and as Class AA by Cresa, Avison Young, and Colliers. Altus InSite rates the subject as being Class A.

[23] In reflecting upon the Complainant's request to apply a rental rate of \$33.50 to the subject, the Respondent is of the opinion that this goes against the notion of mass appraisal. Section 293(1) of the Municipal Government Act states that, *"In preparing an assessment, the assessor must, in a fair and equitable manner, (a) apply the valuation standards set out in the regulations, and (b) follow the procedures set out in the Regulations"* (Exhibit R-1, page 91).

[24] The subject property is part of the AA- group of properties in the City to which is applied typical rental values of \$35.00 per square foot. Although the subject is classed as an AA- building, according to the information provided by the property manager, the subject is performing better than other AA- buildings thereby fully supporting its assessment.

[25] Two recent leases, Jackson Enterprises with a commencement date of 10/01/2012 at \$37.33 per square foot, and the Petrochina lease with a commencement date of 08/15/2012 at \$46.00 per square foot, support the assessment at \$35.00 per square foot.

[26] Many of the current leases in place reflect a start date of 2009 and a rate of \$28.00 per square foot. These leases are far removed from the valuation date of July 1, 2013 and cannot be used to reflect current market conditions. Two current leases as noted above for Jackson Enterprises and Petrochina are more reflective of current market conditions.

[27] There have not been many sales of Class AA buildings in the downtown sector of the City. Four Class B buildings, which sold in 2002, reflect a sale price per square foot of \$114.00. Bankers Hall, which sold in 2002, reflects a value of \$271.00 per square foot (Exhibit R-1, page 95).

[28] Class B buildings which sold in 2005 reflect an average sales price of \$156.00 per square foot as compared to Class AA buildings which sold for \$351.00 per square foot. In other words, the B Class properties reflect a selling price 44% of the AA Class buildings (Exhibit R-1,

page 96).

[29] Class B buildings which sold in 2012 and 2013 reflect an average price of \$407.23 per square foot while Class AA- buildings sold for \$641.00 per square foot. This lends further support to the conclusion that Class B buildings are valued at 42% of the Class AA buildings.

[30] By applying this mathematical relationship of 42-44% of Class B buildings to a value of \$407.23 as noted above, one arrives at a value of approximately \$1,000 per square foot. In other words, in using the per square foot sales values of Class B buildings, one is able to approximate the value of Class AA- buildings. However, it should be noted that the subject property is not assessed at a value of \$1,000 per square foot but rather at \$641.00 per square foot (Exhibit R-1, page 97).

[31] A leasing history of Class AA- buildings in the downtown sector (Exhibit R-1, page 125) which shows commencement dates and rates, would indicate that the leases in place for the subject are among the longest. This indicates that most leases have been signed long before the valuation date of July 1, 2013 and should not be taken to reflect current market lease rates.

[32] The downtown office rental rate summary supports a rate of \$35.00 per square foot (Exhibit R-1, page 130) for the subject property. This is supported by a review of 10 Class AA- lease rates in the downtown core which indicates a weighted mean of \$35.21 per square foot (Exhibit R-1, page 132). This value is further supported by the 2014 AA DT1 Office Rent Analysis of 7 properties where the mean rate is \$37.80 per square foot (Exhibit R-1, page 131).

[33] In conclusion and in support of their request to confirm the assessment, the Respondent provided MGB Board Order 145/07, MGB Notice of Decision No. DL 019/10, pages 207 – 211, CARB 1331/2011-P, pages 213 – 219, CARB 1446-2012-P, pages 220 – 225, and CARB 72237P-2013, pages 226 – 233.

Complainant's Rebuttal:

[34] Recent leasing rates within the Class AA- buildings from July 2012 to July 2013 indicate a trend between size of space and the rates achieved. The greater the leasable space, the less is the amount garnered for that space (Exhibit C-2, page 5). This conclusion is supported by the coefficient of determination (Exhibit C-2, pages 9 – 11).

[35] The subject property has one of the worst parking ratios in the Class AA- category. This statistic has a cooling effect on the market value of the subject (Exhibit C-2, pages 20 – 25).

[36] In conclusion and in support of their request for a reduction in the assessment amount, the Complainant provided an Alberta Court of Queen's Bench decision (Exhibit C-2, pages 28 – 33) and Board Order MGB 140/01, pages 34 – 60).

Board's Reasons for Decision:

[37] The subject is properly classified as an AA- building.

[38] The leasing activity in the subject is not typical of the market due to the amount of space committed in one lease negotiation to a single tenant.

[39] Much of the space in the subject reflects a lease start date of 2009 and cannot be used to reflect current market conditions and current lease rates.


[40] The subject property has a high profile, is well maintained, and performs well. As a result, it should not be considered in a class lower than AA-.

[41] Although the Complainant argued that a lower lease rate in the subject buildings came about as a result of exceptionally large leases, no compelling evidence was provided in this regard through which the Board could entertain a reduction in the assessment amount.

[42] The Board places little weight upon several long term leases within the subject property which reflect a commencement date of 2009. On the other hand, the Board places considerable weight on the Complainant's data of 9 more current leases which carry a weighted mean of \$35.21. These leases support the current assessment of \$35.00 per square foot (Exhibit C-1, page 75).

[43] In conclusion, the evidence presented by the Respondent is sufficiently compelling to lead the Board to conclude that the assessment of the subject property is fair and correct and should not be disturbed.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF August 2014.



Presiding Officer

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

NO.	ITEM
1. Exhibit C-1	Complainant Disclosure
2. Exhibit R-1	Respondent Disclosure
3. Exhibit C-2	Complainant's 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.*