



## **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:**

***Kacz Holdings Ltd. (as represented by Altus Group Limited), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***M. Axworthy, PRESIDING OFFICER***

***H. Ang, BOARD MEMBER***

***A. Wong, 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: 113004220**

**LOCATION ADDRESS: 7290 11 ST SE**

**FILE NUMBER: 74717**

**ASSESSMENT: \$4,580,000**

This complaint was heard on 24 day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *M. Cameron, Agent*
- *K. Fong, Agent*

Appeared on behalf of the Respondent:

- *R. Sidikou, Assessor*
- *S. Turner, Assessor*

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

- [1] The Respondent objected to pages 27-35 in the Complainant's Rebuttal package C2, attesting that it was new evidence and should not be heard by the Board.
- [2] The Board considered the matter and determined that it would allow the Complainant to refer to the material. In its deliberations, the Board would determine how much weight to place on the pages in question.
- [3] The Respondent requested that the parking argument contained on pages 41-84 of File 74157 be Cross-referenced to this file.

**Property Description:**

- [4] The subject property is located in the East Fairview Industrial area and developed with a 20,550 square foot (SF) building comprising 18,125 SF of Big Box retail 14,001- 40,000 and 2,425 SF of office on the second floor. It has a Subproperty use code of CM0206, Retail-Freestanding Big Box. The subject was constructed in 1990 and is classified as "B-" quality. It is assessed using the Income Approach to value with a cap rate of 6.50% and vacancy rates of 1% and 8% respectively and rental rates of \$15.00 and \$16.00 per SF.

**Issues:**

- [5] While a number of issues were identified on the Complaint Form, the following issues were argued at the hearing:
- a) The Big Box retail rental rate for the subject is too high and should be reduced to \$9.00 per SF.
  - b) The rental rate for the office is too high and should be reduced to \$13.00 per SF.

**Complainant's Requested Value: \$2,840,000**

**Board's Decision:**

[6] The Board reduced the assessment to \$2,840,000

**Legislative Authority, Requirements and Considerations:**

[7] Under the Act Section 460.1(2) and subject to Section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property, other than property described in subsection 460.1 (1)(a).

[8] The Board reviewed the evidence provided and will limit its comments to the relevant facts pertaining to this case and materials which led to the decision.

**Issue: Should rental rate for the Big Box retail space be reduced to \$9.00 per SF?**

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

[9] The Complainant stated that the subject was located in the East Fairview area, north of the Deerfoot Meadows Shopping Centre and is characterized by a mix of industrial and retail properties. The subject is a former industrial building that had been converted to retail (Kacz' Kids infant and children's wear and accessories) and also contains a small amount of office space on the 2<sup>nd</sup> fl. that houses the company's head office.

[10] The Complainant stated that in 2013, it had worked with The City to reach an agreement to reduce the 2013 assessment to \$3,060,000, but was unable to reach a similar agreement in 2014 and as a result, the assessment had increased by 50%.

[11] The Complainant stated that the subject had very high site coverage at 47% and was deficient in parking as it was built under the former Land Use Bylaw 2P80 and provided only 24 parking stalls at a ratio of 1.17 stalls per 1,000 SF, compared to the Land Use Bylaw 1P2007 requirement for retail stores of 4.0 stalls per 1,000 SF.

[12] The Complainant provided photographs of the exterior of the building showing access points and the interior of the main and second floors of the building. The Complainant argued that as the building was a former industrial building, the access to the retail space was poor as it was set back from the building entrance. The Complainant also stated that the subject somewhat "tucked away" from Heritage DR SE and lacked exposure to a high traffic corridor [C1, pp. 14-19].

[13] The Complainant stated that for these reasons, the subject was inferior to the other "B" quality Big Box stores used in the Respondent's City Wide 2014 Big Box 14,001-40,000 SF "B" Quality analysis [C1, p. 34]. In support of its argument, the Complainant provided photographs of all the "B" quality Big Box retail stores used in the analysis stating that the subject was clearly inferior in quality and location to these properties [C1, pp 43-71] and was more comparable to properties included in The City's "C" quality Big Box study [C1, pp. 74-110] such as Le Chateau on 32 AV NE that were assessed at \$9.00 per SF.

[14] The Complainant noted that for 2014, the Respondent had reclassified some properties along 11 ST SE e.g., Lee Valley Tools and General Paint [C1, pp. 51-53] from a "C" to a "B".

**Respondent's Position:**

[15] The Respondent stated that there were three new leases in the immediate area [R1, p. 108] for \$22.00 per SF, \$15.00 per SF and \$12.00 per SF that had been used in the 2014 "B" Quality Big Box retail study [R1, p. 103]. As the subject was located close by and was comparable to these properties (Lazy Boy Furniture, General Paint and Jacques Furniture), as the subject was equitably assessed at \$15.00 per SF.

[16] The Respondent stated that it did not believe that the parking deficiency made it "atypical" for the reasons outlined in its analysis of parking deficiencies in File 74157 and that in its opinion, the subject was the same as other retail buildings on 11 ST SE.

[17] The Respondent acknowledged that two properties along 11 ST SE had been upgraded from a "C" quality to a "B" quality as 11ST SE was a good retail street and was performing as a "B". In response to questioning, the Respondent stated that it was possible for different buildings on the same street in close proximity to one another to have a different quality rating.

**Board's Reasons for Decision:**

[18] The Board finds that the photographic evidence and testimony of the Complainant about the nature, characteristics and quality of finishing of the subject in comparison to The City's "B" quality comparables indicates that the property is over assessed in relation to its peers.

[19] The Board finds that while some buildings on 11 ST SE are classified and are performing as "B" quality properties, as agreed by the Respondent, it is possible to have buildings of different quality ratings on the same street.

[20] The Board reduces the Big Box 14,001- 40,000 SF retail rental rate for the subject to \$9.00 per SF.

**Issue: Should rental rate for the office space be reduced to \$13.00 per SF?**

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

[21] The Complainant stated that quality of the office space was of a lesser quality than the office space used in The City's 2014 "B" Quality Suburban Retail Office rental rate Analysis [C2, p. 2]. In support of its argument, the Complainant provided photographs of the leases used in The City's analysis and stated that the referenced leased areas were typically located in Strip or Neighbourhood Centres that contained a number of office units. The Complainant stated that the subject was a single, small office unit that was not typical of the offices included in these purpose built retail/office buildings. The Complainant stated that it understood that there was no exterior access to the second floor office space.

**Respondent's Position**

[22] The Respondent objected to pages 27 to 35 in the Complainant's C2 Rebuttal package

as the Respondent argued that it had not made reference to "C" quality retail office leases in its R1 Evidence package. The Board determined that it will place no weight on this material as it was not properly disclosed to the Respondent.

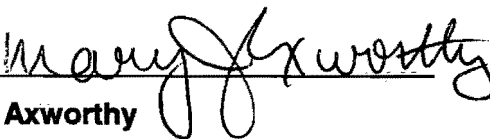
[23] The Respondent stated that it had visited the site and there was an exterior access to the second floor offices and provided photographic evidence to that effect [R1, p. 16-21] and that this office space was comparable to the other office space used in its analysis that had a median rental rate of \$16.00 per SF [R1, p. 98].

#### **Board's Reason for Decision**

[24] The Board is persuaded by the Complainant's photographic evidence and argument that despite the separate exterior access to the 2<sup>nd</sup> floor office space, the office space in the subject is not typical of the purpose built suburban retail/office space used in the Respondent's 2014 Retail/Office space analysis.

[25] The Board reduces the office rental rate to \$13.00 per SF.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF August 2014.

  
M. Axworthy  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	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 Only**

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB				