

# Central Alberta

Regional Assessment Review Board

Decision # CARB 0262 477/2012

Complaint ID # 477 - 489

Roll # Multiple Rolls

## COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: 18 SEPTEMBER 2012

PRESIDING OFFICER: M. CHILIBECK

BOARD MEMBER: V. KEELER

BOARD MEMBER: I. RONNIE

BOARD CLERK: S. PARSONS

BETWEEN

RD Executive Place Ltd.,  
Represented by: Colliers International Realty Advisors Inc.

Complainant

- and -

The City of Red Deer

Respondent

[1] These are complaints to the Central Alberta Regional Assessment Review Board in respect of property assessments prepared by the Assessor of the City of Red and entered in the 2012 Assessment Roll as follows:

<u>ID NUMBER</u>	<u>ROLL NUMBER</u>	<u>MUNICIPAL ADDRESS</u>	<u>ASSESSMENT</u>
477	1635175	102, 4900 – 50 <sup>th</sup> Street	\$490,300
478	1635180	101, 4900 – 50 <sup>th</sup> Street	\$1,473,500
479	1635185	200, 4900 – 50 <sup>th</sup> Street	\$2,646,500
480	1635190	300, 4900 – 50 <sup>th</sup> Street	\$2,928,600
481	1635195	400, 4900 – 50 <sup>th</sup> Street	\$2,939,000
482	1635200	500, 4900 – 50 <sup>th</sup> Street	\$2,928,000
483	1635205	600, 4900 – 50 <sup>th</sup> Street	\$2,677,800
484	1635210	700, 4900 – 50 <sup>th</sup> Street	\$2,568,300
485	1635215	800, 4900 – 50 <sup>th</sup> Street	\$2,579,000
486	1635220	900, 4900 – 50 <sup>th</sup> Street	\$2,576,400
487	1635225	1000, 4900 – 50 <sup>th</sup> Street	\$2,304,700
488	1635230	1100, 4900 – 50 <sup>th</sup> Street	\$2,007,500
489	1635235	1200, 4900 – 50 <sup>th</sup> Street	\$1,823,600

[2] These complaints were heard by the Composite Assessment Review Board (Board) on the 18<sup>th</sup> day of September, 2012 in the Council Chambers of City Hall in The City of Red Deer.

[3] Appeared on behalf of the Complainant:

- S. Cook, representative of Colliers International Valuation Services Inc.
- G. Jobagy, representative of Colliers International Valuation Services Inc.

[4] Appeared on behalf of the Respondent:

- R. Kotchon, property assessor of The City of Red Deer
- B. Lutz, City Assessor of The City of Red Deer

### **JURISDICTION**

[5] The Central Alberta Regional Assessment Review Board has been established in accordance with section 456 of the *Municipal Government Act R.S.A. 2000, ch M-26* (hereinafter, "the MGA") and the *City of Red Deer Assessment Review Board Bylaw 3441/2009*.

[6] Neither party raised an objection to any Board member hearing the complaint.

[7] No procedural or jurisdictional matters were raised by either party.

### **PRELIMINARY MATTER**

[8] At the outset of the hearing, both parties agreed to have the complaint for each of the 13 units dealt with at one hearing as the issue is the same for each unit, the evidence is identical for each unit and the presentation by each party would be the same for each complaint. The only difference is the assessment amount of each unit.

### **PROPERTY DESCRIPTION**

[9] The subject properties are 13 condominium units within a 12 storey office building with an underground parkade recently constructed at the northwest corner of Ross Street and 49<sup>th</sup> Avenue in downtown Red Deer. Construction was completed in September, 2010 and registered into condominium units in February, 2011. All thirteen units are owned by the same owner. The subject is commonly known as Executive Place.

### **BACKGROUND**

[10] The subject properties are assessed using the capitalized income method wherein with other factors a typical vacancy rate of 3% was applied.

[11] The Complainant disputes the vacancy rate of 3.0%.

[12] During the hearing the Respondent withdrew their request that the Board consider an alternative assessment, being an increase the assessment of each unit.

**COMPLAINANT'S REQUESTED VALUES:**

<u>ID NUMBER</u>	<u>ROLL NUMBER</u>	<u>MUNICIPAL ADDRESS</u>	<u>ASSESSMENT</u>
477	1635175	102, 4900 – 50 <sup>th</sup> Street	\$201,300
478	1635180	101, 4900 – 50 <sup>th</sup> Street	\$507,100
479	1635185	200, 4900 – 50 <sup>th</sup> Street	\$899,100
480	1635190	300, 4900 – 50 <sup>th</sup> Street	\$929,700
481	1635195	400, 4900 – 50 <sup>th</sup> Street	\$932,600
482	1635200	500, 4900 – 50 <sup>th</sup> Street	\$929,500
483	1635205	600, 4900 – 50 <sup>th</sup> Street	\$858,700
484	1635210	700, 4900 – 50 <sup>th</sup> Street	\$827,800
485	1635215	800, 4900 – 50 <sup>th</sup> Street	\$830,800
486	1635220	900, 4900 – 50 <sup>th</sup> Street	\$830,100
487	1635225	1000, 4900 – 50 <sup>th</sup> Street	\$752,200
488	1635230	1100, 4900 – 50 <sup>th</sup> Street	\$699,200
489	1635235	1200, 4900 – 50 <sup>th</sup> Street	\$617,200

**ISSUE**

[13] The complainant identified one matter under complaint on the Assessment Review Board Complaint Form, an assessment amount, and attached a list outlining several reasons for the complaint. At the hearing the Complainant identified the following issue regarding each of the assessment amounts.

1. The vacancy rate for each unit should be increased to 50% (from 3%).

**BOARD'S FINDINGS IN RESPECT OF EACH ISSUE**

**1. Vacancy Rate**

**Complainant**

[14] The Complainant argued that the vacancy rate should be increased from 3% to 50% because the subject properties were 100 % vacant as of December 31, 2011. As per s.289 of the Municipal Government Act an assessment must reflect the characteristics and condition date of December 31 of the assessment year. The assessment year in this case is 2011.

[15] The construction of the subject building was completed in September, 2010 and was 100% vacant until April, 2012 when a tenant occupied 46% of the total rentable area (93,483 square feet) of the 13 condominium units. Namely, the tenant leases Unit 13, Unit 12, Unit 11, Unit 10, Unit 9 and part of Unit 8.

### **Respondent**

[16] The Respondent argued that for property assessment purposes the subject building has been vacant for less than one year; from September, 2010 to the valuation date of July, 2011. It was asserted that chronic vacancy is an indication of functional obsolescence and as the subject building was recently constructed, it does not or should not have any functional obsolescence.

[17] The Respondent advised that their policy to recognize chronic vacancy or extraordinary vacancy "is to consider this issue after three consecutive years of vacancy in the same space." In summary the Respondent stated that they anticipate that the subject building would be leased out within three years.

[18] The July, 2012 sale of a recently constructed comparable property at 50% occupancy was provided in evidence by the Respondent and asserted that the subject assessments, at an average of \$320 per square foot, are supported by the sale price of \$417 per square foot. Also, the Respondent asserted this sale indicates that a recently constructed building with considerable vacancy supports the Respondent's position of not recognizing a vacancy rate greater than the typical of 3%.

[19] A project cost summary for the subject property was provided by the Respondent showing the total project cost to be \$41,063,778. The Respondent determined from these costs that \$35,608,433 was attributable to the building. This cost plus the value of the land at \$1,384,100 equals a total valuation of \$36,992,500 (land & building). The total assessed value for the 13 units is \$29,943,200. The requested values total \$9,815,300. The Respondent surmised that "It is not reasonable to think the owner's consider the building to be worth only \$10 million dollars as at July 1, 2011 when it cost \$40 million."

### **Board Findings**

[20] The Board was not provided with any evidence by either party which would provide direction on how long it would take to lease out a recently constructed building. The Board believes that a developer, such as in this case, would commence pre-leasing activity as soon as construction was started in 2007. However, in this case it is apparent that they were not able to secure a tenant until April, 2012.

[21] The Board acknowledges the Respondent's practice of recognizing chronic vacancy after there is a three year history of vacant space. This policy may work well for existing buildings however, should the policy be applied to a new building as in this case? And if so, should the three year term start when the building is completed and ready for occupancy or should the term start when construction of the building commences? The Board was only provided with the fact that the subject was 100% vacant as of December 31 of the assessment year, sixteen months after construction was completed.

[22] The Complainant and the Respondent agreed that the subject units were 100% vacant on December 31 (characteristic date). However, the Complainant did not provide any market evidence/analysis, other than the subject's actual vacancy, to support their claim for a vacancy rate of 50%. The Board finds this rate to be very high when it considered the construction costs incurred by the owner. In addition to the actual vacancy of the property, the Board believes a market analysis of the Red Deer market regarding chronic/abnormal vacancy would be wise to support a request for a significant vacancy rate as in this case.

[23] The Respondent asserted that the typical vacancy rate applied in the subject assessments was derived from market research. The Complainant did not provide any market research to support the requested vacancy rate in recognition of the actual significant vacancy.

[24] The Board looked to text book material to gain a better understanding of chronic vacancy as it applies to property valuation and found a definition for vacancy in the Glossary for Property Appraisal and Assessment by the International Association of Assessing Officers and paraphrases as follows.

Vacancy is the amount deducted from potential annual gross income to reflect the probable vacancy and turn over by tenants. It should be based on market research, not actual rental history of a property.

[25] The Board notes there appears to be no industry standard regarding chronic vacancy in new buildings and there is no clear definition of chronic vacancy or understanding of how to treat chronic vacancy. However, as is suggested by the above definition, the Board believes that chronic vacancy rates should be based on market research just as typical vacancy rates. Also, the Board believes it would be beneficial for the Respondent to have a written practice or policy addressing chronic/abnormal vacancy in new buildings. By doing so assessed owners would have an understanding how this characteristic is reflected in the assessment.

[26] Regarding the comparable sale provided by the Respondent, the Board placed no weight on this sale because it is post facto the valuation date of July 1, 2011 by approximately twelve months and post facto the assessment year by six months. The Board will not accept and/or consider evidence that is post facto the assessment year. Information post facto the assessment year was not available when the assessment for the subject property was determined as of July 1 in the 2011 assessment year.

[27] The Board is not persuaded by the Complaint's argument to change the vacancy rate by a considerable amount without significantly more market evidence of the Red Deer downtown office market and its analysis.

## **DECISION**

[28] For the reasons noted above, the Board decided the assessed values of the subject properties are NOT CHANGED/CONFIRMED.

[29] Dated at The City of Red deer, in the Province of Alberta this 3rd day of October, 2012 and signed by the Presiding Officer on behalf of all panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



M. Chilibeck,  
Presiding Officer

**This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca).**

**APPENDIX "A"**

Documents Presented at the Hearing  
And considered by the Board

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NO.

ITEM

- |              |   |
|--------------|---|
| 1. C1 to C13 | Complainant's Disclosure of Evidence for each Complaint |
| 2. C14       | Lease Document for Stantec Consulting Ltd.              |
| 3. R1        | Respondent's Disclosure of Evidence for Thirteen Units  |

FOR MGB ADMINISTRATIVE USE ONLY

Decision No. 0262-477/2012		Roll No. 1635175 to 1635235 (13 Units)		
<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Office	High Rise Condominium Units	Income Method	Vacancy Rate