

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

**between:**

***Assessment Advisory Group, COMPLAINANT***

**and**

***The City of Calgary, RESPONDENT***

**before:**

***H. Kim, PRESIDING OFFICER***

***D. Pollard, MEMBER***

***T. Usselman, 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 2010 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>067094003</b>
<b>LOCATION ADDRESS:</b>	<b>602 11 Ave SW</b>
<b>HEARING NUMBER:</b>	<b>58192</b>
<b>ASSESSMENT:</b>	<b>12,950,000</b>

This complaint was heard on the 16 day of June, 2010 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *Yuan Tao*
- *Troy Howell*

Appeared on behalf of the Respondent:

- *Darren McCord*
- *Carmen Fox*

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

The Respondent raised a preliminary issue with respect to a revised calculation sheet that had been emailed by the Complainant at 1:40pm the previous afternoon. He stated that he was not in dispute with the calculation, and had adequate time to review it, however the new revised value represented only a 3% reduction in the assessment and for that reason requested that the complaint be dismissed. He stated there were previous cases that supported dismissal on requests for reductions of less than 5%. The Complainant explained that the revised calculation was due to the cap rate no longer being in dispute but that the other values were still in contention, therefore the hearing should proceed.

The Board declined to dismiss on the basis requested by the Respondent, because the amount of the requested change in assessment was significant notwithstanding that it was 3% of the total, and because the details of the previous cases referred to by the Respondent were unavailable and in any event had not been properly disclosed.

**Property Description:**

The subject property is Sunrise Square, a four storey Class B office building constructed in 1978 having 56,796 sq. ft. of rentable area and 92 parking stalls on a 29,272 sq. ft. parcel located on the corner of 5 St and 11 Ave SW in the Beltline area. It is assessed using the income approach to value.

**Issues:**

The Complainant identified two issues on the Complaint form:

1. The assessed value is not reflective of the property's market value.
2. The assessed value is inequitable with comparable property assessments.

**Complainant's Requested Value:** \$10,500,000  
revised to \$12,415,000 on Exhibit 1 presented at the hearing

**Board's Decision in Respect of Each Matter or Issue:**

The Complainant did not lead evidence with respect to Issue 2, therefore only Issue 1 was considered. Issue 1 contained 5 sub-issues, but only two were argued and considered by the Board:

1. a) The rental rate applied is not reflective of market rental rates.
- b) The vacancy rate applied is not reflective of market vacancy rates.

**Issue 1: Market Rental Rates****Complainant's position:**

The main floor space is assessed as Office Retail Space at \$22 per sq. ft. The Complainant stated that 2 out of 3 tenants on the main floor had signed leases in April 2008 at \$15 (weighted average) and \$17 per sq. ft. for an average of \$16 per sq. ft. for the main floor space. The upper level office space is assessed based on Office Space South West at \$17/sq. ft. Three office leases were signed in June 2008 at \$21, August 2008 at \$18 and May 2009 at \$16-\$18 for a weighted average of \$16.74 which reflected the decline in market lease rates between 2008 and 2009. There is no dispute related to the rates for below-grade space or for parking rates.

A partial rent roll was submitted showing the details of the leases signed in 2008 and 2009. The Complainant submitted that based on this information, \$16/sq. ft. for the first floor space and \$16.75/sq. ft. for the office space should be used in determining the assessment using the income approach.

**Respondent's position:**

The Respondent presented a list of 18 Retail Lease Comparables for the Beltline signed between January 2008 and October 2009. The leased areas ranged from 856 to 5,860 sq. ft. and the lease rates ranged from \$16 to \$35 per sq. ft. The median was \$25 (\$24 including the subject leases). The mean was \$23.86 (\$22.82 including the subject leases). The Respondent stated that these leases support the \$22/sq. ft. applied to the main floor space. The office space is assessed at \$17 and it is the position of the Respondent that the \$16.75 requested by the Complainant is an inconsequential difference.

The rates used in the assessment are typical rates based on the Assessment Request for Information returns for the subject and many similar properties obtained by the Respondent. The Respondent agreed that the main floor leases in the subject building were less than the typical rates but noted that renewals are sometimes signed for less than market rates due to other motivating factors. Actual lease rates are not used in assessment unless it can be demonstrated that the space is atypical. The Respondent noted that the actual rents obtained for parking stalls, according to the RFI for the subject, is \$3,360 per stall but the typical rate used for the assessment is \$2,100.

The Respondent stated that the \$22/sq. ft. for the first floor space and \$17/sq. ft. for the office space were typical and reflected market rates for the subject property.

**Decision and Reasons:**

The Board agrees with the Respondent that the difference between the \$16.75 requested and the \$17 applied for the upper level office space is too small to be analyzed based on the evidence

submitted. With respect to the main floor space, the photographs submitted do not indicate any abnormal characteristics that might support an atypical lease rate. The Board agrees that lease rates used for assessment purposes should be typical rates. The leases presented by the Respondent supported the \$22 rate as typical for main floor space, and the Complainant led no evidence other than the two actual lease rates.

## **Issue 2: Market Vacancy Rates**

### Complainant's position:

The dispute centres on whether vacancy rates used in the analysis for assessment based on income should include sublease space. 8.5% vacancy was used for the subject assessment. The Complainant presented two documents:

- Avison Young Calgary Office Market Report – Second Quarter 2009 which stated that Class B space in the Beltline had a vacancy rate of 7.9% (11.9% including sublease space). The document also included the subject under “Featured Avison Young Calgary Listings” listing 1,700 and 7,400 sq. ft. spaces available for lease.
- Colliers International Calgary Perspective Mid Year 2009 which stated the Beltline reported an increase in vacancy rate to 10.81% including sublease space.

These documents support 10% as the appropriate vacancy rate to use in the income approach to value. A purchaser considering the purchase of an office building would look at the overall vacancy rate, which would include sublease space, when determining how much to pay.

### Respondent's position:

The Respondent also presented the Avison Young document in addition to the CresaPartners Point of View Q2 2009, which listed head lease vacancy in the Beltline at 7.68% (11.43% including sublease space). The Respondent stated that some of the sublease space reported as vacant is actually being paid for and does not come on the leasing market, or is leased privately and not reported. The Respondent does not use sublease vacancy because to include it would be double counting. Based on the RFI report for the subject, there are no sublease tenants in this building, and it does not suffer from abnormal vacancy.

The Respondent noted that reported head lease vacancies for June 2009 were 6.7 to 7.5% and the assessment is based on 8.5% which is reasonable and reflects market vacancy.

### Decision and Reasons:

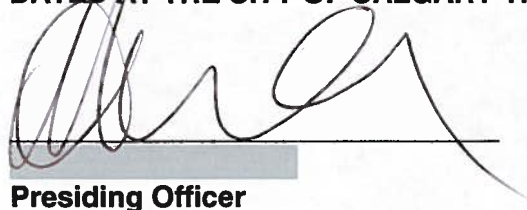
The Board does not agree that only head lease vacancy should be considered in determining market vacancy as the total amount of available vacant space would impact the market in terms of risk and affect the trend in lease rates. However, the Board does agree that sublease space, while reported as vacant, might be paid for by the head lease tenant and would not be space vacant to the landlord.

The Board concludes that an appropriate vacancy rate would include some but not necessarily all of the available sublease space. A range of head lease vacancy rates were reported, all substantially lower than the 8.5% used by the Respondent in the assessment. In the absence of specific evidence and details of vacancy from sublease space, the Board finds the 8.5% adequately reflects market vacancy.

**Board's Decision:**

The complaint is denied and the assessment is confirmed at \$12,950,000.

DATED AT THE CITY OF CALGARY THIS 6<sup>th</sup> DAY OF July 2010.



**Presiding Officer**

*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.*

**APPENDIX "A"**

**DOCUMENTS RECEIVED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1	Submitted by Complainant – Revised calculation of value

# EXHIBIT #1

Roll	067094003	YOC 1978	
Address	602 11 Ave SW		
	City		Requested
Office Space	48,082	Office Space	48,082
Rate	\$ 17.00	Rate	\$ 16.75
Income	\$ 817,394	Income	\$ 805,374
Vacancy Rate	8.50%	Vacancy Rate	10.00%
Vacancy Allowance	\$ 69,478	Vacancy Allowance	\$ 80,537
Less: Vacancy Allowance	\$ 747,916	Less: Vacancy Allowance	\$ 724,836
Vacancy Shortfall Rate	\$ 12	Vacancy Shortfall Rate	\$ 10
Vacancy Shortfall Allowance	\$ 49,044	Vacancy Shortfall Allowance	\$ 48,082
Less: Vacancy Shortfall	\$ 698,872	Less: Vacancy Shortfall	\$ 676,754
Non-recoverable	2%	Non-recoverable	2%
Non-recoverable Allowance	\$ 14,958	Non-recoverable Allowance	\$ 14,497
NOI	\$ 683,914	NOI	\$ 662,257
Office Below Grade	3,800	Office Below Grade	3,800
Rate	\$ 8.00	Rate	\$ 8.00
Income	\$ 30,400	Income	\$ 30,400
Vacancy Rate	8.50%	Vacancy Rate	10.00%
Vacancy Allowance	\$ 2,584	Vacancy Allowance	\$ 3,040
Less: Vacancy Allowance	\$ 27,816	Less: Vacancy Allowance	\$ 27,360
Vacancy Shortfall Rate	\$ 12	Vacancy Shortfall Rate	\$ 10
Vacancy Shortfall Allowance	\$ 3,876	Vacancy Shortfall Allowance	\$ 3,800
Less: Vacancy Shortfall	\$ 23,940	Less: Vacancy Shortfall	\$ 23,560
Non-recoverable	2%	Non-recoverable	2%
Non-recoverable Allowance	\$ 556	Non-recoverable Allowance	\$ 547
NOI	\$ 23,384	NOI	\$ 23,013
1st Fl	3,249	1st Fl	3,249
Rate	\$ 22.00	Rate	\$ 16.00
Income	\$ 71,478	Income	\$ 51,984
Vacancy Rate	8.50%	Vacancy Rate	10.00%
Vacancy Allowance	\$ 6,076	Vacancy Allowance	\$ 5,198
Less: Vacancy Allowance	\$ 65,402	Less: Vacancy Allowance	\$ 46,786
Vacancy Shortfall Rate	\$ 12	Vacancy Shortfall Rate	\$ 10
Vacancy Shortfall Allowance	\$ 3,314	Vacancy Shortfall Allowance	\$ 3,249
Less: Vacancy Shortfall	\$ 62,088	Less: Vacancy Shortfall	\$ 43,537
Non-recoverable	2%	Non-recoverable	2%
Non-recoverable Allowance	\$ 1,308	Non-recoverable Allowance	\$ 936
NOI	\$ 60,780	NOI	\$ 42,601
Storage	1,665	Storage	1,665
Rate	\$ 8.00	Rate	\$ 8.00
Income	\$ 13,320	Income	\$ 13,320
Vacancy Rate	8.50%	Vacancy Rate	10.00%
Vacancy Allowance	\$ 1,132	Vacancy Allowance	\$ 1,332
Less: Vacancy Allowance	\$ 12,188	Less: Vacancy Allowance	\$ 11,988
Vacancy Shortfall Rate	\$ 12	Vacancy Shortfall Rate	\$ 10
Vacancy Shortfall Allowance	\$ 1,698	Vacancy Shortfall Allowance	\$ 1,665
Less: Vacancy Shortfall	\$ 10,490	Less: Vacancy Shortfall	\$ 10,323
Non-recoverable	2%	Non-recoverable	2%
Non-recoverable Allowance	\$ 244	Non-recoverable Allowance	\$ 240
NOI	\$ 10,246	NOI	\$ 10,083
Parking	92	Parking	92
Rate	\$ 2,100.00	Rate	\$ 2,100.00
Income	\$ 193,200	Income	\$ 193,200
PGI	\$ 1,125,792	PGI	\$ 1,094,278
Vacancy Allowance	\$ 79,270	Vacancy Allowance	\$ 90,108
Vacancy Shortfall	\$ 57,932	Vacancy Shortfall	\$ 56,796
Non-recoverables	\$ 17,066	Non-recoverables	\$ 16,219
NOI	\$ 971,523	NOI	\$ 931,154
Capitalization rate	7.50%	Capitalization rate	7.50%
Value	\$ 12,953,644	Value	\$ 12,415,391
Net Rentable Area	55,131	Net Rentable Area	55,131
Assessment /Sq Ft	\$ 235	Assessment /Sq Ft	\$ 225

→ 2nd and 3rd Floors.

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