

**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:

Dundee Canada (GP) Inc. (as represented by Altus Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. McEwen, PRESIDING OFFICER

B. Jerchel, MEMBER

R. Deschaine, 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 2011 Assessment Roll as follows:

ROLL NUMBER: 067044107

LOCATION ADDRESS: 839 5 AVE SW

HEARING NUMBER: 64546

ASSESSMENT: \$16,230,000

This complaint was heard on 21st day of July, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- D. Chabot

Appeared on behalf of the Respondent:

- R. Fegan
- D. Lingren

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

There were no jurisdictional or procedural matters raised.

Property Description:

The subject property is the Atrium 1 office building, located on the west side (DT2) of downtown Calgary. The subject, constructed in 1978, is classified as B- for assessment purposes. The subject has 109,829 square feet of rentable area of which 9,859 square feet is main floor retail space.

Issues:

Is the subject property assessed higher than market value and is the subject assessment, therefore, inequitable to comparable properties? Specifically;

1. Should the office rent rate be reduced to \$12?

Complainant's Requested Value:

\$14,460,000

Board's Findings and Reasons in Respect of Each Matter or Issue:

1. Should the office rent rate be reduced to \$12?

The Complainant argued that the subject's office rent rate should be adjusted from \$14 per square foot to \$12 per square foot based upon subject and comparable lease rates in 2010. In support, the Complainant provided five, 2010 subject leases indicating a weighted average of \$12.05 per square foot. The Complainant also brought forward a third-party report indicating an asking rate for downtown, B class buildings in 2010 of \$13 per square foot. The Complainant also provided a 2011 Downtown Office B Class D2 Rental Analysis showing twenty-nine leases from nine office towers indicating a weighted mean of \$13.02 per square foot. The Complainant argued that the evidence confirmed lease rates had softened through 2010 and that the subject property could not achieve \$14 per square foot as assessed.

The Respondent provided the 2011 Downtown Office Net Rental Rates summary that showed two rates for DT2 B- space, \$14 and \$13 per square foot. The subject property was assessed at

the higher rate. In addition, the Respondent provided the 2011 Downtown Office B Class DT2 Rental Analysis from which the 2011 downtown office rates were derived. The analysis showed fifty 2009 and 2010 leases taken from eleven B class DT2 buildings including four subject leases. The weighted mean of the fifty leases was \$16.43 per square foot. The weighted mean of the 2010 leases alone was \$14.45 per square foot. The Respondent also provided industry reports indicating the asking rate for B class buildings ranged from \$12-\$16.76 per square foot during the valuation period.

The Respondent argued that the inputs to the Income Approach to Value did not stand alone and that changing one input without regard to the remainder could lead to a flawed result.

In rebuttal, the Complainant provided five Income Approach Valuations for downtown properties that indicated identical cap rates but differing rent rates. The Complainant argued the evidence indicated that the inputs of the Income Approach to Value were not necessarily dependant; one could move without a subsequent change in the others.

The Board finds the typical rent rate of \$14 per square foot to be reasonable and fair for the following reasons:

- The Complainant provides insufficient evidence for the Board to consider Atrium 1 anything but typical for assessment purposes. Therefore, the Board finds the typical rate appropriate.
- The Respondent's lease comparables, which indicate a weighted mean of \$14.45 for 2010 leases and which support the typical rate, are further supported by third party analysis and opinion.
- The Complainant's five subject leases are not supported by any evidence and are, therefore, given little weight by the Board.

Board's Decision:

The assessment is confirmed at \$16,230,000.

DATED AT THE CITY OF CALGARY THIS 10th DAY OF AUGUST 2011.

C. McEwen

C. McEwen
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	Complainant 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.*