

**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:

***1023825 Alberta Ltd., Omers Realty Corporation (as represented by the Altus Group),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***T. B. Hudson, PRESIDING OFFICER
D. Julien, MEMBER
J. Kerrison, 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 2012 Assessment Roll as follows:

ROLL NUMBER: 068054295

LOCATION ADDRESS: 255 5 AV SW

FILE NUMBER: 66941

ASSESSMENT: \$285,180,000

This complaint was heard on the 6th day of September 2012, at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *S. Meiklejohn*
- *D. Hamilton*

Appeared on behalf of the Respondent:

- *R. Fegan*

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

The Complainant advised the Board that disclosure material had been filed with respect to a lack of response to information requested under Sections 299 and 300 of the Act; and with respect to the exclusion of evidence under Section 9(4) of the Matters Relating to Assessment Complaints Regulation (MRAC). However, the Complainant also advised the Board that these matters would not be addressed in the hearing and therefore that the disclosure material did not need to be entered as an Exhibit.

The Parties requested, and the Board agreed, to cross-reference the direct evidence, rebuttal and argument from hearing #66944 and #66942, in considering the property assessment complaint in this hearing #66941.

Property Description:

[1] The subject property is a 1.57 acre parcel of land, and is improved with two office buildings situated in the Downtown Commercial Core district, specifically within the economic zone DT1. The buildings were constructed in 1978 and comprises a total assessed area of 840,681 square feet (sf.), with quality class rating of A (old). The assessed area includes offices, main and second floor retail, storage space, recreational space, and 411 underground parking stalls. The property is located at 255 5 AV SW, and is commonly known as Bow Valley Square 4. The current assessment based on the capitalized income approach to value is \$285,180,000, or approximately \$339 per square foot (psf.). **The Parties agreed that there was an error in the size attributed to both the recreational and second floor retail areas used to calculate the assessment. The Parties further agreed that the current assessment should be amended to \$283,780,000 based on the correct size allocations.**

Issues:

[2] The Complainant identified the assessment amount and the assessment class, as the matters of complaint on the Assessment Review Board Complaint form.

[3] At the outset of the hearing, the Complainant identified the specific issues as the requested changes to the following 2012 A (old) DT1 office assessment parameter rates.

- Rent Rate of \$22 psf. for Office Space Reduced to \$20 psf.

- Capitalization (Cap) Rate of 6.75% Increased to 7.50%.
- Vacancy Rate of 4% Increased to 5%.
- Rent Rate \$32 psf. for Retail Space Reduced to \$28 psf.

[4] However, during the course of the hearing the Complainant suggested that the issues could be confined to amendments to the office rent rate and the Cap rate only. The Complainant proposed that the assessment complaint could be resolved by adopting one of the following alternatives:

- Retain the Assessed Rent Rate of \$22 psf. for Office Space, and Amend the Assessed Cap Rate to 7.50%.
- Amend the Assessed Rent Rate to \$20 psf. for Office Space, and Retain the Assessed Cap Rate of 6.75%.

Complainant's Requested Value

[5] The original request was for **\$229,070,000** or approximately **\$272 psf.** based on the requested changes to the 2012 A(old) quality class DT1 office building assessment parameters previously noted in point [3].

[6] However, based on the two alternative scenarios noted in point [4] above, the Complainant request would be revised to **\$253,900,000 (\$302 psf.)** based on office rent of **\$22psf.** and a Cap rate of **7.50%**; or alternatively, **\$262,080,000 (\$311psf.)** based on office rent of **\$20 psf.** and Cap rate of **6.75%**.

Board's Finding in Respect of Each Matter or Issue:

Rent Rate

The Board finds that the correct rental rate for 2012 A (old) quality class DT1 office space is the assessed rate of \$22 psf.

[7] The Respondent submitted a list of some 42 market lease comparables for downtown A quality class office space (page 33 of Exhibit R1). The leases all had commencement dates in 2010 or 2011 with terms ranging from 6 months to 10 years.

[8] The Respondent included all of the leases in their initial analysis resulting in a weighted average rent of \$20.94 psf. However, when only leases with a 2011 commencement date were included the weighted average rent was \$21.65 psf.

[9] The Complainant did not submit market evidence directly, and chose to analyze the leases submitted by the Respondent (page 110-111 of Exhibit C1). Using cumulative criteria designed to reduce the number of leases considered, the analysis resulted in weighted average rent rate for each criteria as follows:

- Including only office space in economic zone DT1...\$20.65 psf.
- Removing so called "atypical" leases...\$19.50 psf.
- Including only those leases with a minimum term of 3 years...\$19.50 psf.
- Including only full floor leases...\$19.56 psf.

[10] In summary, the Complainant suggested that their analysis demonstrated that the assessed rent rate for the office space in the subject property should be reduced to \$20 psf.

[11] However, the Respondent argued that all of the 42 listed leases are valid market indicators and should be included in any analysis of rent rates for downtown office space. In addition all of the Industry reports (Appendix D page 113-171 of Exhibit R1), indicate that beginning in the second quarter of 2011 vacancy rates were declining and asking rents were increasing for A class quality office space in downtown Calgary.

Cap Rate

The Board finds that the correct Cap rate for 2012 A (old) quality class downtown office buildings including the subject is the assessed rate of 6.75%.

[12] The Respondent submitted three transactions involving 50% interests in class A quality office buildings in the DT1 economic zone in support of the assessed Cap rate of 6.75%. (page 46 of Exhibit R1). The Scotia Centre was the subject of two of the transactions and the Gulf Canada Square was the subject of the third. The two Scotia Centre sales reported Cap rates of 7.36% and 6.02% respectively, while the Gulf Canada Square sale reported a cap rate of 6.39%.

[13] A summary of third party industry reports from CB Richard Ellis reporting a Cap rate range of 6.25% - 6.75%, and Colliers a range of 6% - 6.5% for downtown A quality class buildings, was also submitted by the Respondent in support of the 6.75% Cap rate (page 45 of Exhibit R1).

[14] The Complainant submitted no direct evidence on the Cap rate issue, but rather argued two of the three sales comparables submitted by the Respondent should be given no evidentiary weight by the Board. The Complainant suggested that the second sale of the Scotia Centre was a lease back involving vendor financing, and, that the sale of the Gulf Canada Square occurred two months after the valuation date of July 1, 2011.

[15] The Complainant argued that only the first sale of the Scotia Centre with a reported Cap rate of 7.36% is valid and therefore the requested Cap rate of 7.50% should be adopted for the assessment.

[16] The Respondent noted that the Real Net reports (page 47-52 of Exhibit R1) indicate both of the Scotia Centre transactions were brokered market sales and occurred April 21, 2011.

[17] In addition, even though the Gulf Canada Square transaction was post facto, the Cap rate of 6.39% from the sale supports the Cap rate applied in the 2012 assessment of the subject property

Board's Decision: The assessment is reduced to the corrected amount of \$283,780,000.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF October 2012.



T. B. Hudson
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
3. C2	Complainant Rebuttal
4. 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.*

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<i>Decision No. 1577/2012-P</i>		<i>Roll No 068054295</i>		
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Office	Downtown Class A (old) Building	Market Value	Cap Rate, Rent Rate