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:

Dundeal Canada Limited Partnership (as represented by Colliers International Realty Advisors Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER
P. Grace, 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 2012 Assessment Roll as follows:

ROLL NUMBER:	**902513381**
LOCATION ADDRESS:	**1601 Airport RD NE**
HEARING NUMBER:	**65962**
ASSESSMENT:	**$27,080,000**

This complaint was heard on 6th day of September, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Board 10.

Appeared on behalf of the Complainant:

- *Mr. – J. Havrilchak - Colliers International Realty Advisors Inc.*

Appeared on behalf of the Respondent:

- *Mr - – K. Buckry - Assessor – City of Calgary*

REGARDING BREVITY:

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The extensive nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None.

Property Description:

[3] The subject is 127,194 square feet (SF) of office space (floors two to eight inclusive) in the eight floor "Class – A" 148,363 SF Airport Corporate Centre (ACC) which was constructed in 2000 on/at Calgary International Airport. In July 2007 Dundee Reit purchased through lease, seven of the eight ACC floors for use as office space under a 54 year lease signed in 1998 and expiring in 2052. The financial consideration was $38,075,000. Alberta Health Services lease the remaining 21,169 SF in the building. Since the ACC is on airport lands leased from the Federal Government, the land rights can never be owned. The 127,194 SF of Dundee space has been assessed using the Income Approach to Value, at $27,080,000 using a 7% capitalization rate and an $18.50 per SF rent rate.

Issue:

[4] What are the correct capitalization and rent rates applicable to the subject in its Income Approach to Value assessment calculation?

[5] **Complainant's Requested Value:** $16,590,000 based on a $13 per SF rent and a 7.75% Capitalization rate.

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

[6] The Complainant argued that the current "Tenant Roll" and recent leasing activity in the subject indicates that it is not achieving "A" Class rents, since one 2010 and two 2011 leases indicate values ranging from $10.00 per SF to $13.00 per SF and not the $18.50 assessed. He acknowledged that two other 2010 leases demonstrated values of $17.76 per SF and $19.00 per SF. He argued therefore that a median rent value of $13.00 per SF should be applied to the subject's 127,194 SF.

[7] The Complainant provided a matrix with rent data from three other off-airport properties at 2891 Sunridge Way NE; 3030 Sunridge Way NE; and 5055 – 11 ST NE. He argued that the data indicates rent rates for the first two properties at $13.50 per SF, and the latter site (the former Westjet office building) at $13.76 per SF. He argued that this data supports his request for $13.00 per SF.

[8] The Complainant argued that the subject is incorrectly classified as a Class "A" office building and assessed at $18.50 per SF. He argued that this classification does not consider the subject's location, condition, physical characteristics or position in the marketplace. He argued the classification should be Class "B" or less based on the Colliers International information sheets for two market sales he had identified.

[9] The Complainant provided two market sales – both off-airport – one at 110 Country Hills Landing NW, and a second at 14505 Bannister Road SE. He provided the RealNet and Colliers detailed information sheets for each sale. Both sites are multi-tenant flex office properties. The Country Hills sale he calculated had transacted at a cap rate of 7.79%, and the Bannister RD site transacted at an 8.01% cap rate. Therefore he argued that the correct "fair and equitable" cap rate to be applied to the subject is 7.75%.

[10] The Complainant provided an alternate Income Approach to Value calculation using a $13.00 per SF rent; a 7.75% Cap rate, and an increased vacancy rate of 12.00% (instead of the assessed 11%) and a Net Operating Income (NOI) of $1,286,363. The Complainant did not provide any supporting documentation for increasing his vacancy rate. He calculated that the value of the subject should therefore be $16,598,236 or $16,590,000 rounded.

[11] The Complainant argued that two of the market sales used by the Respondent are portfolio sales and thus are invalid when evaluating the sales to establish a typical cap rate. He provided copies of Municipal Government Order MGB 236/00 and DL 026/02 in support of his argument.

[12] The Complainant requested that the assessment be reduced to $16,590,000.

[13] The Respondent argued that the Complainant did not provide the complete rent roll for the subject and has omitted several higher value active rents in the subject. He provided the complete tenant rent roll for the subject which was received from the owners by the City on May 24, 2011, just prior to the July 1, 2011 valuation date.

[14] The Respondent noted that the NOI as provided by the owners in the tenant roll demonstrates a value of $1,863,708 and not the $1,286,363 reported by the Complainant. He argued that the Complainant has only used 69% of total NOI in his alternate valuation calculation. In addition, the Respondent provided a matrix displaying the subject's complete rent profile which displayed a range of lease values from $10 per SF to $28 per SF. He noted the average lease value was $19.02 per SF and the median $18.87 per SF. He argued that the subject's rent roll evidence supports the $18.50 per SF used to assess the site and not the $13.00 per SF sought by the Complainant.

[15] The Respondent also argued that analysis of the tenant rent roll demonstrates that the subject experiences an actual vacancy rate of 4.94% whereas the subject benefitted from being assessed using a larger "typical" 11% vacancy rate. Therefore, he argued the Complainant's use of a 12% vacancy allowance in his Income Approach calculation is not justified.

[16] The Respondent provided copies of both CBRE Richard Ellis, and Colliers International marketing materials for the subject – each identifying the property as an "A" Class office building. He argued therefore that the subject is not a "B" Class building as alleged by the Complainant, but is correctly classified for assessment purposes as an "A" Class office building.

[17] The Respondent provided the 2012 Assessment Explanation Supplement (AES) for 21,169 SF of Alberta Health Services space in the subject. He also provided a copy of the lease document. He argued that this space – while exempt, has been assessed using the same $18.50 per SF rent; 11% vacancy; and 7% cap rate parameters as applied to the subject, and this maintains an equitable approach to assessing similar but separate spaces in the subject.

[18] The Respondent provided the AES for the new 315,440 SF Westjet suburban office building at 22 Aerial Place on Calgary International Airport. He argued that this Class "A+" building is slightly superior to the subject and has also been assessed using $20 per SF rents; a 7% cap rate; and 11% vacancy rate - the latter two rates like the subject. He argued that this also demonstrates equity.

[19] The Respondent provided the Tenant Roster (rent roll) and the RealNet transaction summary sheets for the newer (2008) Opus 2 building at 2535 - 3 AV SE. He noted that the Complainant had argued in prior years that this building was comparable to the subject, a position with which he concurred. He noted that this year however the Complainant had opted not to reference this sale. He also noted that the valid leases in this building range from $19 per SF to $34 per SF and support the $18.50 per SF used to assess the subject.

[20] The Respondent provided a matrix of eight suburban office properties, four of which transacted in 2010, and four in 2011. He provided the RealNet information sheets for each sale. He noted that three of the sales were for Class "B" buildings and five were for Class "A" buildings. He argued that the median cap rate for "A" buildings was 6.91% and 7.81% for the "B" buildings. He confirmed that a 7% cap rate was used for the subject and all similar suburban office buildings.

[21] The Respondent argued that the Complainant's market sale comparables are not comparable to the subject and are the same comparables which were rejected by the Calgary Composite Assessment Review Board (CARB) in an appeal of the subject's assessment last year. He clarified that the Complainant's comparables are Class "B" buildings whereas the subject is a Class "A" building. He provided a copy of Decision CARB 2851/2011-P which dealt extensively with and confirmed the assessment of the subject in 2011. He argued that the two sales used by the Complainant to calculate his requested 7.75% cap rate demonstrated the highest cap rates of the five sales which occurred. He argued that by using all of the sales, the resultant value supports the 7% used by the City.

[22] The Respondent requested that the assessment be confirmed.

Board Findings

[23] The Board finds that contrary to the assertions of the Complainant, the subject has been marketed by the Complainant's own company, and its competitors, as a Class "A" building and therefore the Board rejects the Complainant's arguments that the subject is a Class "B" building and should be assessed using lower rent and higher cap rate values.

[24] The Board finds that the complete rent roll for the subject's building as provided by the Respondent, demonstrates that the $18.50 per SF rent rate used to calculate the subject's assessment is valid, and fair and equitable.

[25] The Board finds that the three property comparables used by the Complainant to substantiate his requested $13 per SF rent rate are not comparable to the subject, and in fact were also rejected by the Board in CARB 2851/2011-P

[26] The Board finds that the two market sales used by the Complainant to calculate his capitalization rate are Class "B" buildings are not comparable to the subject which is a Class "A" building and hence the 7.75% cap rate derived therefrom is not applicable to the subject.

[27] The Board finds that the eight market sales used by the Respondent are similar to the subject, and although two are portfolio sales and are not considered to be arm's length transactions, the remainder generally support the 7% cap rate used in the assessment calculation.

[28] The Board finds that both the 12% vacancy allowance and the $1,286,363 NOI used by the Complainant in his alternate calculation of value using the Income Approach to Value, are unsupported and incorrect as evidenced by the master tenant roll. Therefore the indicated alternate value developed by the Complainant for the subject is considered by the Board to be unreliable.

[29] The Board notes that its decision in this appeal is based on the evidence and argument presented at this hearing, and also notes that this decision is consistent with CARB 2851/2011-P which extensively reviewed much of the same evidence and argument regarding the assessment of the subject in 2011.

Board's Decision:

[30] The assessment is confirmed at $27,080,000.

DATED AT THE CITY OF CALGARY THIS 3 **DAY OF** OCTOBER **2012.**

K. D. Kelly
Presiding Officer

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

NO.	ITEM
1. C-1	Complainant Disclosure
2. R-1	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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Appeal Type	**Property Type**	**Property Sub-type**	**Issue**	**Sub-Issue**
CARB	Suburban Office	Class "A" Office space	Market value	Correct Rent and capitalization rates