CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS

In the matter of the complaint against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

1446925 Alberta Ltd. – ATCO Ltd. and ATCO Investments Ltd. (as represented by Colliers International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER
I. Fraser, MEMBER
J. O'Hearn, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBERS:	**067 102 525 & 067 102 517**
LOCATION ADDRESSES:	**909 & 919 – 11 Avenue SW, Calgary AB**
HEARING NUMBERS:	**63631 & 64482**
ASSESSMENTS:	**$28,520,000 & $22,950,000**

This complaint was heard on the 11th day of August, 2011 at the office of the Assessment Review Board located at Floor No. 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Scott Meiklejohn, Agent, Colliers International Realty Advisors*

Appeared on behalf of the Respondent:

- *Lawrence Wong, City of Calgary, Assessment Business Unit*

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

At the outset of the hearing, Board Member I. Fraser disclosed that he had been an employee of an ATCO company, not related to these complaints, but that the employment ended in 2000 and there has been no association since that date. Both parties confirmed that there was no perception of bias on the part of Mr. Fraser.

Property Description:

There are two properties that are the subjects of this complaint. They are adjoining office buildings in market zone BL4 in the Beltline. Issues, evidence and argument from both parties were much the same for each property.

	ATCO Centre I	ATCO Centre II
Address:	909 – 11 Ave SW	919 – 11 Ave SW
Roll Number:	067 102 525	067 102 517
No. Of Storeys:	16	9
Retail Floor Area (Sq. Ft.):	5,761	1,166
Office Floor Area (Sq. Ft.):	202,148	130,154
Total Floor Area (Sq. Ft.):	207,909	131,320
Parking Stalls:	115	260
Year of Construction:	1982	1982
Assessment Classification:	"B"	"B"
2011 Assessment:	$28,520,000	$22,950,000
Assessment/Sq. Ft. of Floor Area:	$137.18	$174.76

Issues:

Assessment Review Board Complaint forms for each property were filed on March 4, 2011. On each form, Box 3 (Assessment amount) in Section 4 was checked. In Section 5, there were identical reasons (grounds) stated for the complaints.

At the hearing, the Complainant clarified the issues that would be the focus of the evidence and argument:

1. Building floor area corrections;
2. Market Value – the office rent rate, vacancy rate and capitalization rate are all incorrect;
3. Equity – the office rent rate, vacancy rate and capitalization rate are all inequitably applied to these properties.

Complainant's Requested Values: ATCO Centre I: $19,402,947
ATCO Centre II: $17,105,819

Party Positions:

Complainant's Position:

1. Floor areas

For ATCO Centre I, the assessed floor area is 207,909 square feet including some retail space, however the December 2010 rent schedule shows 188,461 square feet, all of which is office. For ATCO Centre II, the assessed floor area is 131,320 square feet, however the December 2010 rent schedule shows 125,772 square feet. If only the floor areas are corrected, the subject assessments would decrease to $25,836,673 and $22,281,937, respectively.

2. Market value

The Complainant maintains that the Respondent has not reflected market changes in the assessments. By mid-2010, rents had decreased and vacancies and capitalization rates had increased from previous years.

Two tables of comparable office rent data were in evidence. The first table set out details of seven lease transactions where start dates were from July to December 2009 (the first half of the base year for the assessment valuation). Rent rates for these leases ranged from $11.50 to $19.38 per square foot and averaged $16.12 (weighted mean). The second table provided data on 11 lease transactions where start dates were from January to July 2010 (the second half of the base year). Rent rates for these leases ranged from $11.00 to $14.00 per square foot and the weighted mean was $11.96. Another set of data showed that rent rates had not changed significantly during the second half of 2010 (the six month period after the valuation date). The Complainant argued that if lease data for the entire base year (July 2009 to July 2010) was averaged, the result would overstate the typical rent rate as at July 1, 2010, thus producing an assessment that is too high.

The requested office rent rate for space in the subject buildings is $12.00 per square foot and this rate is supported by the 2010 lease data from comparable buildings.

For the vacancy argument, the Complainant argued that the market phenomenon of sublease space availability was a factor that must be considered. The assessment is based on a 13% typical vacancy allowance and the Complainant maintained that with consideration of sublease space availability, the rate should be 15%. In support, data from quarterly market surveys conducted by Colliers International brokerage division was shown in tabular form. For the four quarters of 2010, total office space vacancy in Beltline buildings was 17.05%, 13.07%, 12.61%

and 11.86%, respectively. Similar market surveys conducted by Cresa Partners showed Beltline vacancies (headlease and sublease space) of 19.43%, 17.14%, 13.92% and 14.04% for the respective quarters one through four of 2010.

The assessment model uses a capitalization rate of 8.50% for these Beltline properties. The Complainant requested assessment is based on a 9.0% capitalization rate. Again, market survey reports were consulted. For the first two quarters of 2010, CB Richard Ellis reported capitalization rates from 8.75% to 9.25% for suburban (which includes the Beltline) offices. For the same two quarters, the surveys by Colliers International reported Class B suburban office property capitalization rates from 7.75% to 8.75%.

3. Equity

The Complainant's equity argument was not related to assessments of similar Beltline properties. The comparison was made to the factors in the valuation model for downtown properties. In the downtown, differences in location and building quality are recognized. For example, properties in the west downtown area are assessed based on rent rates and vacancy allowances that are different from those for properties of the same class located in the central core. In the Beltline, all Class B properties have the same parameters regardless of location. Historically, it was recognized that locations either to the east or west of the core area (around 4 and 5 Streets SW) had lower values and thus different rents, vacancies and/or capitalization rates than properties in the central area. This difference in treatment between downtown and Beltline was questioned by the Complainant when investments in office properties in both areas carry the same risk.

Beltline properties like the subject properties are comparable to west downtown properties within the same class. The argument was that the same capitalization rate should be applied to the subjects as is used in assessing west downtown "B" properties. The downtown capitalization rate is 9.0% whereas the subjects are assessed using an 8.50% rate.

4. Other:

Although market sales price was not an issue for this complaint, the Complainant provided data on five Beltline office sales that occurred between October 2008 and January 2010. For each property, the Complainant related the sale price to the 2011 assessment and calculated Assessment to Sales Ratios (ASR's) from 0.46 to 0.84 (an ASR is calculated by dividing the sale price by the assessment). Based on this analysis, the Complainant argued that the Respondent could not have reasonably relied upon these sales in making the assessment because the ASR's were significantly outside of the desired ASR range of 0.95 to 1.05.

Respondent's Position:

1. Floor areas

The Respondent assesses property based on floor area information provided by property owners through the Assessment Request For Information (ARFI) process. If areas change due to new leases or floor measurements, then the onus is on the owner to report such changes to the City of Calgary Assessment Business Unit. If there have been changes as shown in the December 2010 rent schedule, then those changes would presumably be reported on the next ARFI return.

2. Market Value

The Complainant's market rental data came from leases in several Beltline buildings. The Respondent provided lists showing all leasing in four of those buildings, pointing out that there were other relevant leases that were omitted in the Complainant's evidence. In addition, there was data on six 2010 leases in buildings near the subjects. The rent rates from these leases ranged from $14.00 to $15.00 per square foot.

The Respondent does not include sublease space in its vacancy studies. While the space may be available for lease, it is still subject to a headlease and rent is therefore being paid. The office market survey report for the 2nd quarter of 2010, prepared by Avison Young reported a vacancy rate for the Beltline at 9.8%. For Class "B" buildings, the rate was 8.53%. The 13% vacancy allowance used in the valuation model is very well supported by this evidence.

There are no grounds for comparison of downtown properties to Beltline properties. Capitalization rates for each of those market areas are determined from the market.

3. Equity

The Respondent did not specifically address the Complainant's arguments that downtown and Beltline are similar markets but with different assessment parameters. These two market areas are not directly comparable and the Complainant has provided no market evidence to support its argument.

4. Other:

Having regard to the Complainant's Beltline sales evidence, the Respondent takes the position that ASR's are to be calculated using the sale price and the assessment in place at the time of sale. If this had been properly done by the Complainant, the ASR range would have been more meaningful. For four of the Complainant's sales, making proper comparisons would yield a range of ASR's from 0.90 to 1.04. The Respondent did not claim to have relied upon sales in making the Beltline office property assessments.

Board's Decision:

The 2011 assessments of these properties are confirmed:

ATCO Centre I:	$28,520,000
ATCO Centre II:	$22,950,000

Reasons for the Decision:

1. Floor area

Unless it is convincingly shown that there is a serious error in floor areas, the Board typically leaves these matters for the parties to work out. It is presumed that the Respondent was notified of current measurements when the 2011 ARFI return was returned and that those areas will be taken into account when the next assessment is made. During the complaint and consultation periods, there are opportunities to address straight forward issues such as floor area. For ATCO Centre II, the Complainant's rent schedule showed both surveyed and leased areas and they differed. There was no explanation for the variance of 6,274 square feet nor was there data to explain the variances between the assessor and the Complainant areas for ATCO Centre I (i.e., the inclusion or exclusion of retail space).

2. Market value

There was no evidence or argument that the subject properties were atypical for the assessed Beltline "B" class. There has been no recent leasing in either building so leases from other Beltline properties were relied upon by the parties. Several of the properties that were surveyed for lease data were common to both parties. Oddly, each party found comparables in some of these properties that the other party did not include. The Complainant's position that rents established during the first six months of 2010 were lower than those for the last six months of 2009 is supported by the Complainant's analysis using its set of rental data. Nevertheless, the Board gives consideration to all lease data from the base year (July 2009-July 2010) with emphasis on the most recent (2010). For 18 of the total 2010 leases that started between January 1 and July 1, 2010, the mean average office rent rate was $13.22 per square foot of leased area. The Respondent also provided six other leases with start dates from January to August 2010 wherein rent rates were from $14.00 to $15.00 per square foot. Unfortunately, there was a limited amount of detail for these leases. Overall, the lease rates range from $10.00 to $17.00 per square foot. The range brackets the "typical" rate of $14.00 used in making the assessment.

It appears from the vacancy rate evidence that both parties relied to some extent upon market survey reports prepared and published by real estate brokers and other analysts. The Complainant had survey data from Colliers that indicated 17.05% total headlease and sublease Beltline vacancy for the first quarter of 2010 and 13.07% per the second quarter. If only headlease vacancy is considered, the respective vacancy rates are 11.16% and 10.46%. It is also noted by the Board that vacancies in Beltline Class "B" buildings is lower than that for all classes combined. Cresa Partners showed 13.83% for quarter one and 13.02% for quarter two of 2010. These rates were for headlease space only. If sublease space is added, the rates increase to 19.43% and 17.14% respectively. Cresa Partners does not differentiate vacancies between classes. The Respondent relied upon the second quarter 2010 Avison Young report that indicated overall Beltline vacancies of 6.65% for headlease space and 9.77% if sublease space is included.

The 2011 assessment calculations include a "typical" vacancy rate of 13% for both subject buildings. This rate is supported by the survey data on headlease vacancy and is accepted by the Board as a realistic typical rate. It is typical to consider only headlease vacancies. If there is substantial sublease space on the market, that is accounted for in the application of other valuation parameters such as the capitalization rate.

Neither party entered evidence of derivation of capitalization rates from market sales. The Complainant maintained that the subject Beltline properties should be compared to similar "B" properties located in the westerly area of downtown. Those downtown properties are valued using a 9.0% capitalization rate while Beltline properties are assessed with an 8.5% rate. While it was argued that the rates should be the same because the investment risk was the same, the capitalization rate evidence in CB Richard Ellis and Colliers market studies showed that downtown rates were generally higher than suburban rates. The Board is not convinced by this argument that the subject assessment capitalization rates should be adjusted.

3. Equity

The Complainant did not specifically address assessments of comparable properties but chose to focus on similarities and differences in office rent rates, vacancy allowances and capitalization rates for downtown and Beltline office properties. The Board does not consider this argument to be direct equity argument. It is essentially a restatement of the argument presented for the market value parameters which have been addressed above.

4. Other

Market sales price was not an issue for this complaint. For this reason, the Board did not consider the evidence and argument regarding sales and assessment to sales ratios (ASR's).

DATED AT THE CITY OF CALGARY THIS 30 **DAY OF** August **2011.**

W. Kipp

W. Kipp
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
ATCO CENTRE I	
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
ATCO CENTRE II	
1. C1	Complainant Disclosure
2. 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.