

**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:**

***Brookfield Properties Ltd. (as represented by Altus Group), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Board Chair, W. Garten  
Board Member J. Rankin  
Board Member Y. Nesry***

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: 068109305**

**LOCATION ADDRESS: 301 8<sup>th</sup> Ave. S.W.**

**HEARING NUMBER: 63300**

**ASSESSMENT: \$16,020,000**

This complaint was heard on 12 day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *D. Chabot - Representing Altus Group*

Appeared on behalf of the Respondent:

- *A. Czechowskij – Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Alberta Municipal Government Act.

There were no procedural or jurisdictional matters brought before the Board.

The Board proceeded to hear the complaint, as outlined below.

**Property Description:**

The Subject Property is known as the Hollinsworth Building and is located in the downtown core on .2 acres. The building was constructed in 1912 and it is deemed a Heritage Building in the City of Calgary. The building has been upgraded over the years with adjacent Banker Hall matching the Hollinsworth exterior facade. The building has 6 floors. The subject is approximately 43,021 SF. It is not connected to the +15. The building has no parking stalls.

**Issues:**

The Building was assessed based on a AA Classification in the downtown core similar to that of Bankers Hall (adjacent). Is this the correct Classification as it relates to fairness and equity?

**LEGISLATION**

**The *Municipal Government Act*, R.S.A. 2000, c. M-26 (MGA);**

s. 1 (n) *"market value" means the amount that a property, as defined in section 284(1)(r) might be expected to realize if it is sold on the open market by a willing seller to a willing buyer.*

s. 284 (1)(r) *"property means"*

- i) *a parcel of land,*
- ii) *an improvement, or*
- iii) *a parcel of land and the improvement to it;*

s. 293(1) *In preparing and assessment, the assessor must, in a fair and equitable manner,*

- (a) apply the valuation and other standards set out in the regulations, and*
- (b) follow the procedures set out in the regulations.*

s.293(2) *If there is no procedure set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.*

s. 467(1) *An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.*

s. 467 (3) *An assessment review board must not alter any assessment that is fair and equitable, taking into consideration*

- a) *the valuation and other standards set out in the regulations,*
- b) *the procedures set out in the regulations, and*
- c) *the assessments of similar property or businesses in the same municipality.*

**Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004 (MRAT);**

s. 2 *An assessment of property based on market value*

- a) *must be prepared using mass appraisal*
- b) *must be an estimate of value of the fee simple estate in the property, and*
- c) *must reflect typical market conditions for properties similar to that property*

s. 4(1)(a) *The valuation standard for a parcel of land is market value*

s. 5(1) *The valuation standard for improvements is*

- a) *the valuation standard set out in section 7, 8 or 9, for the improvements referred to in those sections, or*
- b) *for other improvements, market value*

s. 6(1) *When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvement is market value unless subsection (2) or (3) applies.*

**Complainant's Requested Value:** \$6,240,000

**Complainant's Position:**

The Complainant provided evidence package C-1, C-2 and C-3 (rebuttal) for its presentation. The Complainant argued that "AA" classification used by the City of Calgary for the subject building is not equitable when compared to other AA buildings. The Complainant argued that the building should be re-classified to a "B" building thus changing the assessment calculation.

The Complainant argued the following points:

- The subject has a very small floor plate of approximately 6,000 SF and is only 6 floors, much smaller than a typical AA building (pg 21 C-1).
- The subject has a very small lobby. Evidenced in C-1 photos.
- The entrance is obscure and not in keeping with a typical AA building. Evidenced in C-1 photos.
- The building is not connected to the +15 which is typical for AA buildings in the downtown core.
- The building has no parking.

- The Royal Bank Building (also adjacent to Bankers Hall) is classed as an "A-" building however it does have parking and is connected to the +15, (pg. 37-42 C-1).
- There has been no leasing in the subject since 2006 i.e. during the "boom years" resulting in a higher rental rate compared to the current market rents at July 1, 2010 (pg 116-118 R-1).
- The City of Calgary has made other class changes to buildings including the Altius Centre changed to a "B" classification in 2010 from an "A" in 2009 (pg 69-72 C-1).
- In 2008 the ARB reduced the classification of the subject to a "B" building (pg. 33-36 C-1).
- 2009 and 2010 were assessment reductions between the City and the Complainant.

Upon questioning, the Complainant clarified the following points:

- The building has been renovated over the years per C-1 and C-2 photos.
- The building has access to Bankers Hall on the 4<sup>th</sup> floor through the (private club) Bankers Hall fitness centre.
- The building has access to Bankers Hall in the basement through CIBC office portion of the bank. The CIBC Retail Bank is accessed from Banker Hall side.
- There is no public access through the Basement or 4<sup>th</sup> floor from the subject to Banker Hall or to the +15.
- The building has its own title and roll number resulting in its ability to be sold separately
- The building does not appear on the CresaPartners list however it is displayed on a CresaPartners map as a "B" building pg. 1 C-2.

### **Respondent's Position:**

The Respondent provided evidence package R-1 for its presentation. The Respondent argued that AA Classification is fair and equitable as there was no evidence to the contrary.

The Respondent argued the following points:

- The Hollinsworth Building has been fully integrated to Banker Hall since 1989 including advertising (pg. 39-41 R-1).
- The transfer documents show that the subject is fully integrated with Bankers Hall (pg. 26-38 R-1).
- The transfer documents dated April 26, 2010 indicate a value far exceeding the requested assessed value (pg 26 R-1).
- The subject is integrated with the Bankers Hall rent roll (pg 104-115 R-1).
- The subject uses the parking in Bankers Hall confirming integration.
- The Subject has been fully renovated to standards approaching "AA".
- There is access to the +15 through Bankers Hall via the basement and 4<sup>th</sup> floors.
- Deals were struck with the Complainant in 2009 agreeing to an assessment of \$23,970,000 and 2010 for \$20,040,000 which confirms a higher value than that requested by the Complainant.
- A "B" classification would generate an assessed market value of approximately \$145 per SF which is substantially below a true market value.
- The rents achieved in the subject confirm the "AA" status including a long term lease with CIBC (pg. 116-118 R-1).
- Industry reported rents (CBRE, Barclay, Avison Young) for Q2 2010 for "AA" buildings

range from \$22 to \$35 per SF with City of Calgary analysis averaging \$32.51 (pg 135-136 R-1).

- 3 comparable sales were brought forward confirming market value and showing selling prices of \$436 per SF, \$330 per SF and \$406 per SF (pg 190-205 R-1).

Upon questioning, the Respondent clarified the following points:

- The subject has a separate title and could be sold separately
- The parkade being used by the subject is separate from the subject building
- Minor renovations have been completed since 2001

The Respondent requested the assessment to be confirmed at \$16,020,000.

### **Rebuttal**

In rebuttal, the Complainant argued the following points:

- The independent CresaPartners have class the Hollinsworth Building a "B" (pg. 3-6 C-2).
- CARB decision 1485/2011-P has reduced the Penn-West Plaza from a "AA" to an "A" classification (pg. 7-11 C-3).
- The transfer documents have been clarified as Non-Arms Length. Evidenced by Ian Parker's letter on pg. 13 C-3.
- The fitness centre lease is further clarified as a Gross lease. Evidenced by Margaret Dreyer e-mail pg. 27-28 C-3.
- The Royal Bank Building which is adjacent to Bankers Hall has the same owner and is classified by the City of Calgary as an "A"-building (pg. 37-38 C-1).

### **Complainant Summary**

In summary the Complainant argued the following additional points:

- The Brookfield transfer is the only evidence the City of Calgary has, however the transaction is non-arms length.
- The fitness centre is a gross lease and not a net lease as indicated by the City
- CARB decision 1344/2011-P reduced 606-4<sup>th</sup> street from "B" to "B-"classification.

### **Respondent Summary**

In summary the Respondent argued the following additional points:

- Market Value must be considered as \$145 per SF is not a reasonable market value.
- The subject is an historical building integrated with Bankers Hall and has an intrinsic value.
- You cannot see a property line in the basement between Bankers Hall and the subject demonstrating that the two buildings are integrated.
- The location is superior to the Altius Building which had been re-classified by the City.
- The complainant did not rebut the sale at 508-15 Ave. SW., which confirms that this comparable is a good market value comparable.

**Last Word by the Complainant**

- 508-15 Ave. SW, is not comparable as it is a medical building and sold for more than the Royal Bank Building on a per SF basis.
- The Bankers Hall sale is non-arms length and non market sale due to cash along with REIT units being transferred as part of the selling price (pg. 43 R-1).
- The comparison of all "AA" buildings proves that the subject should not be in this classification as it is an outlier (pg. 21 C-1).
- Penn-West has a \$34 lease however the Building classification was still reduced.

The Complainant requested the Board to reduce the classification from a "AA" building to a "B" building and reducing the assessment to \$6,240,000.

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

The CARB finds that:

1. The physical characteristics of the subject does not compare favourably with a "AA" classification.
2. The in place income with CIBC cannot be considered a market arms-length lease rental rate.
3. The subject is partially integrated into Bankers Hall as part of a larger complex.
4. The adjacent Royal Bank Building comparable which is classified as an "A-" Building has been given the most weight in this decision.

**Board's Decision:**

It is the Board's Decision to reduce the assessment to \$11,300,000 based on the reduction of classification from a "AA" Building to an "A-" Building.

**Reason(s) for Decision**

The Board's reasons for this decision are as follows:

- The Board decided that the subject's Physical Characteristics falls short as a "AA" Building since the floor plates are small (6,000 SF), there is no direct public connection to the +15 and there is no parking directly associated with the Building.
- The connections to Bankers Hall via the 4<sup>th</sup> floor and the basement are not public corridors as these locations are leased to specific tenants (CIBC and Banks Hall Club).
- The subject could be considered annexed to Bankers Hall as is the case with the Royal Bank Building.
- The Location of the Building would be best compared to the Royal Bank Building which has an "A-"classification.
- The subject has been renovated over the years to a modern well positioned building in the marketplace as a result the Board did not put much weight on restrictions due to age.
- The Board deemed the CIBC lease to be a non market, non arms-length transaction due to the unusual term of the lease (64 years).

- The Board agreed that it would be very difficult to determine current market value when based solely in place income including the on the non arms-length lease (CIBC) and non arms-length sale which took place recently.
- The Board did not apply much weight to the classification of the subject determined by Cresa as a "B" building as it found other inconsistencies in the Cresa classifications which included the Royal Bank Building with a Cresa classification of "A" and a City of Calgary classification of an "A-".
- The Board found that by changing the classification of the subject from a "AA" to an "A-" Building, this changed the assessment calculation for office space to \$22.00, retail space to \$30.00 and vacancy to 7%.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF SEPTEMBER 2011.

*for*   
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**W. Garten**  
**Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	CresaPartners Maps and Photos
3. C3	Rebuttal
3. 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.*