

**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

***Ontrea Inc.*
(as represented by *Altus Group Limited*), COMPLAINANT**

and

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

before

***L. Yakimchuk, PRESIDING OFFICER*
K. Farn, MEMBER
*G. Milne, 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: 068031004

LOCATION ADDRESS: 400 – 4 Av SW

FILE NUMBER: 66935

ASSESSMENT: \$211,540,000

This complaint was heard on October 16, 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, Altus Group Limited*
- *D. Hamilton, Altus Group Limited*

Appeared on behalf of the Respondent:

- *A. Czechowskyj, City of Calgary Assessment*
- *H. Neumann, City of Calgary Assessment*

Preliminary Matters:

[1] The Complainant and the Respondent asked that the common Complainant Rebuttal and all questions and arguments from hearings for the week of October 15 to 18 be included in the Board's consideration for decision. These hearings include CARB hearings 2126, 2127, 2128, 2129, 2130 and 2131.

Property Description:

[2] The subject is a 1976 "A" class 690,723 square foot (sf) Downtown Commercial Core (DT1) office/highrise built on a 65,404 sf Downtown Business District corner lot. It is commonly known as the Shell Centre.

Issues:

[3] Is this property assessed correctly? Has market value been correctly calculated using the appropriate assessment parameters? Is the assessment fair and equitable? Is the classification "A" correct?

Complainant's Requested Value: \$169,180,000

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

Evidence and Arguments

[4] The Complainant, S. Meikeljohn on behalf of Altus Group Limited, stated that the subject building is rated "A" (Old), but it is more comparable to an "A-" building. He reminded the Board that an example of a sale of an "A" (Old) property would be the Scotia Centre sale. He argued that the first Scotia Centre sale is a true market value sale and results in a Cap rate of 7.36%.

[5] Mr. Meikeljohn presented evidence that the typical rent rates for the building are \$23.29/sf (mean: C1 p45), and argued that the newer actual rates are lower, using some new rates to Shell Canada of \$18.28/sf (C1 p53). The assessed office rate is \$22.00/sf. He argued that the lower rates indicate the building would more appropriately be assessed "A-". The

Complainant also presented an equity list of five downtown recent leases from three "A" (old) buildings with a weighted average rent of \$20.94/sf (C1 p60).

[6] The Complainant argued that the Parking for the Shell building is limited. There are 93 stalls on the property, giving a 1:7427 sf ratio for parking space. The normal ratio should be 1:2400 sf.

[7] Mr. Meiklejohn concluded that the correct class for the Shell building should be downgraded from "A" to "A-", this qualifying for a reduced rental rate of \$18.28/sf and a Cap rate of 7.00% for a lower market value.

[8] The Respondent, H. Neumann, City of Calgary Assessor argued that the current property assessment is \$306/sf and the Complainant is looking for an adjustment to \$236/sf. He reminded the Board that the City is using the second Scotia Centre sale as an "A" class comparable (\$381/sf). He stated that the Assessment Requests for Information (ARFIs) show the rent rates to be \$18.35 to \$25.00/sf and the equity comparable charts indicate rates of \$20.70 to \$21.65. (R1 p35). The retail lease comparables indicate a weighted mean of \$32.72, and the rate used in the assessment is \$32/sf.

[9] Mr. Neumann pointed out that the actual vacancy rate for the building is 0%, but the typical rate used in the calculation is 4%.

[10] In rebuttal, the Complainant questioned the mathematical analysis done by the City and their use of outliers in their calculations. He argued that the subject building is an older building in a secondary location with limited parking in the DT1 area and should be classified "A-".

[11] The City questioned the issue of poor parking as there is City-owned parking available adjacent to the building.

[12] In summary, the Complainant reiterated the poor mathematical analyses done by the City, without correction for outliers, and using leases other than full floorplate leases. He supported a 5% vacancy rate which is supported by a third party report produced on a specific-date analysis. Finally, the Complainant disagreed with the use of the second Scotia Centre sale as a basis for developing a Cap rate and argued that only the first sale was arm's length and market driven. He suggested a \$20/sf rent rate and a 6.73% Cap rate would be appropriate for this property.

[13] The Respondent summarized by asking the Board to consider several judicial, MGB and CARB decisions. The City argued that the subject building is behaving like an "A" class building and should be assessed that way, and the parameters used in the assessment are supported by comparable leases.

[14] Further the Respondent argued that discussion of Vertical Inequities is premature as this argument is based on post facto sales and the appropriate accommodation will be made in the 2013 tax year. The second sale of the Scotia Centre, the Respondent argued, is a good benchmark and a valid market sale.

[15] The Complainant concluded by arguing that the first Scotia Centre sale is a good benchmark and a valid arms length sale. Using the 7.0% Cap rate that results would produce a better estimate of the value.

Board Findings

[16] The Cap rate is a direct result of the comparison to the available Market Sales. As there were only two market sales available in the assessment year, and these were sales of half shares of the same "A" class building, Scotia Centre, choosing one sale over the other could

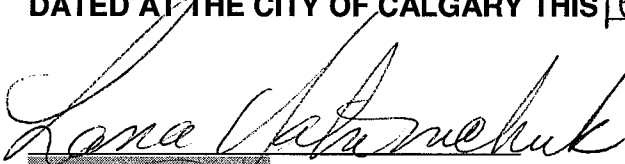
change the rate significantly. The Board reviewed the documentation attached to the Land Title Registrations for these two purchases and found that reasons to discredit either sale were possible, but speculative. As a result, the Board used both sales in a calculation of Cap rate. The actual Cap rate for Scotia Centre was, therefore, 6.69%, rounded to 6.5%. Scotia Centre is located on the Retail Spine, therefore a Cap rate for the subject property would be higher for an "A" class building further from this centre. Consequently, the rate of 6.75% used in the subject current assessment calculations would be accurate.

[17] The Board found that there was insufficient evidence to change the classification of the subject property from "A" (old) to "A-". Typical rates for "A" class office towers were supported by the rates within the subject building and by the rates for similar buildings. Therefore, the Board found that the assessment was accurate as presented.

Board's Decision:

[18] The Board confirms the assessment of \$211,540,000.

DATED AT THE CITY OF CALGARY THIS 16th DAY OF November 2012.



Lana Yakimchuk
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R2	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.*

For MGB Administrative Use Only:

Decision No. 0808-2012-P

Roll No. 092028703

Subject	Type	Issue	Detail	Issue
CARB	Downtown Office	Income Approach	Cap rate	Classification