

**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:

**623244 Alberta Ltd.
(as represented by Colliers International Realty Advisors Inc.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
J. Kerrison, MEMBER
T. Usselman, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	067241208
LOCATION ADDRESS:	630 3 Ave SW
HEARING NUMBER:	62994
ASSESSMENT:	\$75,410,000

The complaint was heard on September 26, 2011, in Boardroom 8 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- C. Hartley

Appeared on behalf of the Respondent:

- H. Neumann; A. Czechowskyj

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description:

The subject property is a downtown Class A-, 12 storey office building known as Shaw Court (formerly Shell Court). The improvement was constructed in 1989 on a 50,445 sq.ft. (square foot) parcel of land, and contains a total area of 288,341 sq.ft., comprised of office area (280,758 sq.ft.), main floor retail area (1,741 sq.ft.), storage space (5,842 sq.ft.), plus 192 parking stalls.

Issues:

The Complainant raised the following matter in section 4 of the complaint form:

3. an assessment

The Complainant set out six grounds for the complaint in section 5 of the complaint form with a requested assessment of \$33,080,000; however, at the hearing only the following issues were before the Board:

Issue 1. The stratification of the property as a Class A- office is incorrect; the property is a Class B office and should be assessed with the typical Class B office coefficients, as follows:

- Office Net Market Rent \$ 14 per sq.ft.
- Parking Stall Rent \$ 4,800 per annum
- Office Vacancy Rate 13%
- Retail Vacancy Rate 13%
- Capitalization Rate 9%

Issue 2. The market rent coefficient applied to the main floor retail area should be \$15 per sq.ft.

Issue 3. The stratification of the subject as a Class A- office is inequitable in relation to superior properties stratified as Class A-, and similar properties stratified as Class B.

Complainant's Requested Value:

The Complainant requested an assessment of \$41,360,000. [C1, p.11]

Board's Decision in Respect of the Issues:

Issue 1: The stratification of the property as a Class A- office is incorrect; the property is a Class B office and should be assessed with the typical Class B office coefficients, as follows:

- Office Net Market Rent \$ 14 per sq.ft.
- Parking Stall Rent \$ 4,800 per annum
- Office Vacancy Rate 13%
- Retail Vacancy Rate 13%
- Capitalization Rate 9%

The Complainant argued that the subject property is a Class B office structure as a result of its size, height, profile, and its periphery location of the downtown core. The Complainant submitted that the assessment has been amended to reflect a B classification by assessment review tribunals in 2007, 2008 and 2009, and the assessor had issued an amended notice for the 2010 assessment roll reflecting a B classification; however, for the current year it has been stratified as a Class A- office building.

In support of the requested \$14.00 per sq.ft. (Class B) net rent coefficient, the Complainant provided twenty two, 2010 office premise leases from three office buildings that have historically shared the same "B" classification as the subject property, exhibiting net rent rates from \$11.00 to \$18.00 per sq.ft. The Complainant submitted these buildings remain assessed as Class B office buildings and argued that they are comparable to the subject property.

The Complainant also provided four, 2010 office premise leases from four properties assessed as Class A- office buildings, exhibiting net rent rates from \$16.00 to \$20.00 per sq.ft. The Complainant argued that these buildings are superior to the subject property.

The Respondent provided photographs of the subject property and argued that the subject is physically and economically a Class A office building, with architectural details not typical of lower quality, Class B construction. The Respondent submitted that the subject property was awarded the BOMA Building of the Year award in 1992 and has always been considered a Class A property by "CresaPartners" and "Altus InSite" commercial real estate services. The Respondent further argued that the subject's typical floor plate area of over 25,000 sq.ft. is more indicative of a Class AA office, and amongst the largest of the Class A buildings identified in the CresaPartners listing of Calgary offices.

The Respondent further provided a copy of the 2011 ARFI (Assessment Request For Information) form in respect of the subject property, exhibiting a recent lease renewal for 47,391 sq.ft. of office area at a rate of \$20.62 per sq.ft. The Respondent argued that the rent rate supports the \$19.00 per sq.ft. coefficient in the assessment, and the subject's Class A-stratification. Further, it was submitted that the subject's rent rate exceeds all of the Class A rent rates exhibited in the Complainant's summary at page 19 of C1.

With respect to the previous tribunal decisions regarding the subject property, the Respondent submitted that previous Boards have considered the subject "an A building in a B location" as a result of the subject's peripheral location; a point conceded by the Complainant. The Respondent argued that as a result of a new Class AA office development in close proximity to the subject property the subject's location can no longer be considered a significant negative influence.

In rebuttal, the Complainant argued that although there were no physical changes to the subject property, the subject is the only Class B in net rent zone DT2 that was re-stratified as a Class A property. The Complainant further argued that there was no economic performance indicator to confirm a change of classification as the lease information was related to a "renewal" and was provided to the assessor after the assessment was prepared and mailed. The Complainant submitted that the only "change" is the construction of the nearby Class AA "Centennial" development, and the Respondent did not reclassify any other adjacent office buildings.

In response, the Respondent argued that the subject's lease renewal is a valid market indicator, and although it is subsequent to the valuation date, it can be used to test the valuation conclusions and validate the property's stratification.

Decision: Issue 1

The Board finds that the subject property is a Class A- office, and is appropriately assessed with the Class A- office coefficients.

Although the Complainant argued that the subject property is a Class B structure, there was no relevant market evidence in support of the argument. The Complainant's lease rate evidence supports the assessor's office net rent coefficients applied to Class A buildings (\$19.00) and Class B buildings (\$14.00); however, the evidence does not demonstrate that the subject property is a Class B office building, notwithstanding the contentious classification history.

The Board was persuaded by the Respondent's evidence of a lease renewal in the subject property at \$20.62 per sq.ft. which supports the subject's Class A stratification with the corresponding \$19.00 per sq.ft. net rent coefficient. The Board finds that the existing 16 year lease of 74,205 sq.ft. clearly expired, and there is no compelling evidence that the lease renewal for a subsequent 5 year term (at the same rate), is not a valid indicator of market rent in the subject property. Further, although the lease evidence was not available to the assessor on the valuation date, it does serve to test and in this instance, confirm the assessor's Class A stratification and \$19.00 per sq.ft market rent coefficient.

With respect to the previous Board decisions from 2007 to 2009, and the assessor's concession in 2010, the Board notes that as a result of the subject being predominantly owner occupied, and the long term (16 year) lease in place during that time, direct market evidence of the subject's current lease rate was obviously not available to the Board, or the Respondent in those prior years. Nevertheless, the Board notes that in the prior decisions, the Board has consistently found that the subject improvement is a Class A building; a point acknowledged by both parties at these proceedings.

The Board was also persuaded by the evidence of two, independent commercial real estate services that identify the subject property as a Class A building. The Board would expect that a property's classification would rarely differ from those of the local real estate industry, serving the market participants whose activities create the market.

Issue 2: The market rent coefficient applied to the main floor retail area should be \$15 per sq.ft.

The Complainant argued that the \$30.00 per sq.ft. net rent coefficient applied to the subject's retail area should be \$15.00 per sq.ft. In support of the \$15.00 rate, the Complainant provided a summary of 3 retail leases exhibiting a range of rent rates from \$12.00 to \$15.00 per sq.ft.

The Respondent argued that the Complainant's lease examples would not represent the current market as they include leases that commenced as far back as December 2006. Further, the Respondent argued that the leases were all of premises located in Class B office buildings in contrast to the subject, a Class A- property.

In support of the \$30.00 per sq.ft. net (retail) rent coefficient, the Respondent provided a summary of 5 unidentified retail leases signed between April 2009 and June 2010, ranging in area from 905 to 6,670 sq.ft. and exhibiting rent rates from \$20.00 to \$36.00 per sq.ft.

Decision: Issue 2

The Board finds that there was insufficient relevant market evidence to refute the \$30.00 per sq.ft. retail net rent coefficient.

The Board did not find the Respondent's five lease comparables compelling evidence, as there was no indication as to the specific location of the leased premises, the classification, age, or any other physical characteristics of the improvements leased, or any supporting documentation to enable the Board to determine comparability with the subject property.

The Board however, was also not persuaded by the Complainant's three lease comparables as they included dated leases commencing in 2006 and 2007 which may not reflect current market rents. Further, the leases were of premises located in Class B properties, which are dissimilar to the subject property.

Issue 3. The stratification of the subject as a Class A- office is inequitable in relation to superior properties stratified as Class A-, and similar properties stratified as Class B.

The Complainant argued that properties stratified as Class A offices are superior to the subject property, as the subject is the shortest building and in the poorest location of the stratum. It is also one of only four Class A office buildings that are not +15 (pedway) connected.

In support of the argument, the Complainant provided a summary of property attributes of the subject property and 14 other Class A- offices to demonstrate that the subject property, constructed in 1989, with 12 floors, no +15 connection, and a parking ratio of 824 sq.ft. (amended to 1462 sq.ft.) per stall is inferior to the remainder of the sample.

The Class A-properties exhibited the following ranges in contrast to the attributes of the subject property: [C1, p.29]

	Minimum	Maximum	Subject
Building Area (sq.ft.)	140,533	732,347	288,342
Floors	10	34	12
Year of Construction	1968	2008	1989
Parking Ratio	162	8,210	1,462 (amended)

Three of the fourteen (21%) Class A- properties are not +15 connected.

To demonstrate that the attributes of the subject property are more comparable to properties stratified as Class B offices, the Complainant further provided a summary of property attributes of the subject property and 23 Class B offices, exhibiting the following ranges: [C1, p.31]

	Minimum	Maximum	Subject
Building Area (sq.ft.)	88,805	451,705	288,342
Floors	7	32	12
Year of Construction	1960	2002	1989
Parking Ratio	544	5,906	1,462 (amended)

Eight of the twenty three (34%) Class B properties are not +15 connected.

In cross examination, the Complainant conceded that the subject property exhibits a better than average parking ratio in relation to the Class A- properties listed on C1, page 29.

The Respondent argued that the subject property "fits" well within the Complainant's summary of Class A- comparables, as it is positioned midway in the summary arranged in order of size, whereas it is positioned near the top in the Complainant's summary of Class B offices arranged in similar fashion. Further, the Respondent argued that the Complainant's analysis fails to include significant attributes such as average floor size, which would clearly distinguish the subject from the Class B comparables.

Decision: Issue 3

The Board finds that the Complainant's equity evidence is inconclusive with respect to the subject's stratification.

The Board was not persuaded by the Complainant's evidence of Class A- and Class B properties as none of the attributes identified by the Complainant were unique to either class of properties, the attribute ranges overlapped significantly, and potentially significant attributes were excluded from the comparison. For example, although the Complainant argued that the absence of a +15 connection was an indication of a Class B property, the Board notes that a good number of both Class A- and Class B properties are not +15 connected. With respect to building height, the Board notes that although there are few Class A- properties of 12 floors or less, this attribute cannot be considered in isolation of the total size of the property, which reflects the subject's significantly larger floor plates that are not prevalent in the Complainant's Class B comparables.

Board's Decision:

The assessment is **confirmed** at \$75,410,000.

DATED AT THE CITY OF CALGARY THIS

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DAY OF DECEMBER, 2011.



J. Krysa,
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission
3. C2	Complainant's Rebuttal Submission
4. R2	CARB 1451/2011-P

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 ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	High Rise	Income Approach	Net Rent / Cap Rate