

**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

***Palliser Square Properties Ltd.
(represented by Altus) COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before

***L. Yakimchuk, PRESIDING OFFICER
A. Blake, MEMBER
J. Pratt, 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:	068230507
LOCATION ADDRESS:	101 – 9 Ave. SW
HEARING NUMBER:	63899
ASSESSMENT:	\$6,490,000

This complaint was heard on October 19, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 - 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *G. Kerslake, Altus Group*

Appeared on behalf of the Respondent:

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

Jurisdictional and Procedural Matters:

There were no jurisdictional or procedural matters.

Property Description:

The Calgary Tower at 101 – 9 Ave. SW is a City of Calgary landmark completed in 1968. It is a single-pour reinforced concrete tower rated Commercial, with a sub-property class of CS2100 Retail and a Direct Control District bylaw regulating it. Assessed area is 21,581 square feet of retail space. Assessed value is \$6,490,000.

Issues:

1. The 2011 Assessed Value does not reflect market value for the subject property, based on the Income Approach.
2. The 2011 Assessed Value does not account for the tax exempt status of one of the tenants in the Premises.
3. The assessed area is incorrect.

Complainant's Requested Value: \$2,550,000

Board's Reasons for Decisions in Respect of Each Matter or Issue:

1. Mr. G. Kerslake, Altus, on behalf of Palliser Square Properties Ltd., provided an Income Approach value using a capitalization rate of 9% (p. 34, 35 C-1) which indicated that rentable area was 12,023 square feet, and resulted in a value of \$2,550,000. He justified the CAP rate based on the rates for two adjacent office towers also owned by Palliser Square Properties Ltd.

Mr. H. Neumann, City of Calgary, indicated that the CAP rate used was for office towers, and Calgary Tower is not an office tower. The lower retail CAP rate of 8% calculated by the City and used for other retail properties in the DT1 area should be used if the calculation is to be made on the Income Approach.

2. Mr. Kerslake said that the City assessment was based on the wrong floor area. Part of the floor area included in the assessment is common area which is not leased. The correct floor area is 12,023 square feet as supported by the floor plan presented on p.19 – 23, C-1 and the

ARFI on p. 17, C-1.

Mr. Neumann argued that common areas are generally accounted for in rents. Furthermore, he presented an argument that the Tower generates its greatest income by selling tickets to the top of the Tower to see the view. It follows that most of the common areas are available only to ticket buyers, and part of the retail operation (R-1, p.22).

3. Altus also suggested that Calgary Tourism, which occupies part of the rental area, should be exempt from taxation, therefore not included in the taxable assessed value. Evidence was provided that municipal holdings are not taxed (C-1, p.31).

The City responded with information on tax exemptions for non-profit organizations (Community Organization Property Tax Exemption Regulation, 16(1)(a)). According to the regulation if a non-profit organization wishes to be tax exempt, it must apply using the appropriate form provided. Further, the organization is tax exempt, not the property owner. Therefore, the tenant would have to apply for the exemption on its own behalf.

4. The City also presented an argument that a cost approach assessment (R-1, p.26) would be a more accurate, and higher, assessment of this property (\$22,785,383). Mr. Neumann and Mr. Czechowskyj agreed that the City was not asking for an increase in assessment at this hearing.

The Board accepts that the current capitalization rate of 8% is equitable with other retail properties in the downtown area. The common areas of properties are generally included in the overall tax assessment and the value of the taxes paid is usually covered by the rents or paid by the tenant.

Calgary Tourism may well be exempt from taxation. This is a concern for that organization, and the organization is the only group that can apply for that exemption, and to benefit from it.

For these reasons, the Board supports the assessment provided by the City of Calgary.

Board's Decision:

Assessment is confirmed at \$6,490,000.

DATED AT THE CITY OF CALGARY THIS 9th DAY OF November 2011.


Lana Yakimchuk
Presiding Officer

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

NO.	ITEM
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.*

This information is for MGB Records Only

File Number	Roll Number	Subject Type	Issue	Detail	Sub-Detail
2545	068230507	CARB	Market Value	CAP, area	Exemption