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:

The Standard Life Assurance Company Of Canada (as represented by Colliers International Realty Advisors Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER
R. Deschaine, BOARD MEMBER
J. Joseph, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER: **067045203**

LOCATION ADDRESS: **800 – 6 Avenue SW, Calgary AB**

FILE NUMBER: **70153**

ASSESSMENT: **$67,450,000**

This complaint was heard on the 11th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *C. Hartley & A. Farley*

Appeared on behalf of the Respondent:

- *H. Neumann*

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

[1] There were no preliminary procedural or jurisdictional matters to be decided by the Board.

Property Description:

[2] The property that is the subject of this assessment complaint is a class "B" 18 storey office building located in the "DT2" market area of downtown Calgary. The building, which was built in 1982, contains 6,698 square feet of main floor retail area and 173,171 square feet of offices on the upper floors. There is parking for 77 vehicles in an underground parkade. The average floor plate size is 11,500 square feet.

[3] For the 2013 tax year, the property was assessed by use of an income approach. Typical rents of $16.00 and $19.00 per square foot were applied to the retail and office spaces, respectively. Typical rent of $400 per month per stall was added for the 77 parking stalls. Vacancy allowances were deducted as was non-recoverable operating expense. The resulting net operating income was capitalized at a rate of 5.00 percent to arrive at the assessed value which was truncated to $67,450,000.

Issues:

[4] In the Assessment Review Board Complaint form, filed February 21, 2013, Section 4 – Complaint Information had a check mark in the box for #3 "Assessment amount".

[5] In Section 5 – Reason(s) for Complaint, the Complainant stated a number of grounds for the complaint.

[6] At the hearing, the Complainant pursued the following issues:

1) Should the office space rental rate be $19.00 or $17.00 per square foot?
2) Is the correct capitalization rate 5.00 percent or should it be increased to 6.50 percent?

Complainant's Requested Value: $46,910,000

Board's Decision:

[7] The 2013 assessment is confirmed at $67,450,000

Position of the Parties

Complainant's Position:

[8] In the subject office building, there has been a total of 67,801 square feet of office space subject to new leases since March 2011. A table of 14 leases shows rent rates from $13.00 to $20.00 per square foot. The mean and median rates were $16.65 and $16.50 per square foot, respectively. For those leases starting between July 2011 and July 2012, the mean and median were both $17.75 per square foot.

[9] Five of six 2012 leases in three other buildings had a rent rate of $16.00 per square foot while the sixth was at $13.00 per square foot. One of the other buildings was directly across 7 Street from the subject. These lease rates, along with those recent leases in the subject support a reduction in the office rental rate to $17.00 per square foot for the subject building.

[10] Differently classed properties should have different capitalization rates but for the current downtown office property assessments, those that are Class "A" buildings actually have the highest capitalization rate rather than the lowest rate which has historically been the case. Class "A" buildings are assessed using a 6.0 percent capitalization rate whereas Class "B" properties such as the subject have a 5.0 percent rate applied. Class "C" properties have a 5.5 percent rate applied. For the 2012 assessment, Class "B" properties were assessed using a 7.0 percent capitalization rate. An analysis of historical rate spreads between Class "A" and Class "B" capitalization rates has been from 0.5 to 1.5 percent with the mode being 0.5 percent. Going from a 7.0 percent capitalization rate for 2012 to a 5.0 percent rate for 2013 at least partially explains why the subject's assessment increased by 140 percent year over year. Changing the capitalization rate from 7.0 percent in 2012 to 5.0 percent for 2013 at least partially explains the 95 percent year over year assessment increase.

[11] The Respondent applies incorrect net income amounts when deriving capitalization rates from sales. If a sale occurred in 2011, it is the 2011 (effective July 1, 2011) typical income that is used. Since typical incomes are based on lease transactions prior to the July 1 valuation date, some of the data could be up to two years old and not representative of 2011 market activity. The proper way to determine the appropriate typical income for input into a sale analysis is to use the typical amount for the assessment analysis year which is from July 1 to June 30.

[12] In the Respondent's evidence, 16 office property sales had been analyzed for capitalization rate derivation. These were properties in all quality classes. Four were Class "B" properties. Mean and median averages had been calculated for each class as well as for the total 16 sales. The Complainant started with the Respondent's data, removed three sales that were considered to be invalid sales and recalculated the remaining 13 data to reflect typical income for the correct time period. After the recalculations, some capitalization rates and the averages were higher than those of the Respondent. For Class "B" properties, the recalculated mean and median rates were from 5.02 to 5.60 percent. Analysis of the total array of sales indicates that capitalization rates are essentially the same for Classes "A" and "B" properties. For this reason, a base rate of 6.0 percent should be selected for application to "A" properties and then the historical hierarchy needs to be recognized by setting the "B" capitalization rate 0.5

percent higher than the “A” rate. This action would preserve historical trends.

Respondent’s Position:

[13] The Respondent analyzes sales for capitalization rate extraction by using the typical income that is closest to the sale date. This means that a property that sold between January 1 and December 31 in a particular year would be analyzed using typical income as set for the July 1 valuation date of the same year. For this reason, the Respondent does not accept the Complainant’s recalculations of some of the sales analyses.

[14] Numerous court and board orders have confirmed that a capitalization rate must be applied in similar fashion to the method whereby it is derived. The use of typical incomes is a requirement in accordance with these orders. For example, the 5.0 percent capitalization rate applied to Class “B” buildings was derived from sales where the typical office rent rate of $19.00 per square foot was an input parameter. By asking for a lower office rent rate ($15.00 per square foot) but continuing to utilize capitalization rates from sales wherein $19.00 was the office rent rate input, the Complainant is not maintaining the required consistency.

[15] An analysis of assessments of various classes of downtown offices shows that the hierarchy is still being maintained even though Class “B” property capitalization rates are lower than those for Class “A” properties. This analysis was based on a comparison of assessed amounts per square foot of building area for “A-“, “B” and “B-“ properties. Rental rates, vacancy rates and so on are different between classes and these factors are all a part of the net operating income analysis based on typical rents.

[16] Notwithstanding the Complainant’s argument regarding hierarchy of the classes, the Respondent has a sufficient number of sales from which capitalization rates were extracted. The market has shown that Class “B” and “C” capitalization rates were lower than “A” rates for sales occurring during the valuation period ending on June 30, 2012.

Board’s Reasons for Decision:

[17] The Complainant argues that rent rate changes should be made only to the subject building and not to all Class “B” buildings in the zone. For support, lease data from the subject property was detailed, which is appropriate but lease data showing even lower rates from other buildings does not support the contention that the subject cannot compete with other Class “B” properties. The 2012 lease data from the subject supports the assessed rate of $19.00 per square foot more than the requested $17.00 per square foot rate. 2012 leases were at rent rates averaging from $18.31 to $18.50 per square foot.

[18] The Respondent’s argument about consistency in typical rates used in both the extraction and application of capitalization rates is appropriate for situations where assessment of an entire class of properties is being challenged. In this instance, the Complainant was arguing that the subject property does not fit in with other Class “B” properties and the rent rate for only this property should be lowered and not the rent rate for all “B” properties. The Board does not accept the argument of the Complainant on this issue. Rents being achieved in the property are not lower than rents in other DT2 Class “B” properties.

[19] The Board considered the evidence offered by the parties, particularly that pertaining to sales of downtown properties. The Board finding is that there is a limited amount of evidence to support the 5.0 percent Class “B” capitalization rate, however the Complainant has not provided anything other than a hierarchal argument and a recalculation of some of the Respondent’s data

to support its proposed 6.50 percent capitalization rate. The recalculations produced a range of rates for Class "B" properties from 5.02 to 5.60 percent which is much lower than the 6.5 percent that is being requested. For the argument about hierarchy, there was no market support for increasing the rate as much as proposed by the Complainant.

[20] Review of the sales and assessment evidence of values per square foot of building area tends to support the positioning of Class "B" assessments both from a market perspective and from the point of view of equity. The subject property is assessed at a rate of $375 per square foot of building area. Sales of two Class "B" buildings indicated rates of $310 and $407 per square foot. "B-" building sales were at $275 and $375 per square foot. None of these prices have been adjusted for differences between properties nor have they been adjusted for market changes over time (time adjustment). The subject assessment fits within these ranges.

[21] Having regard to the year over change in assessments, the 2012 assessment (based on market value as at July 1, 2011) indicated a rate of $156.45 per square foot of building but the most comparable sales that occurred during 2011 showed prices from $276 to $310 per square foot of building area. Perhaps the 2012 assessment was substantially lower than market. Nevertheless, the Board does not adjust assessments solely on the basis of year over year changes. In this instance, the 140 percent increase is at least partially attributable to higher rents (supported by evidence) and a lower capitalization rate (supported by evidence).

DATED AT THE CITY OF CALGARY THIS 13th **DAY OF** August **2013.**

WK

W. Kipp
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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 Internal Use

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	OFFICE	HIGH RISE	INCOME APPROACH	NET MARKET RENT CAPITALIZATION RATE