Calgary Assessment Review Board

DECISION WITH REASONS AND DISSENTING OPINION

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:

Second Real Properties Limited
(represented by Colliers International Realty Advisors, Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

V. Higham, PRESIDING OFFICER
B. Jerchel, BOARD MEMBER
J. Pratt, BOARD MEMBER

This is a complaint to the Calgary Assessment Review Board (the Board) in respect of a property assessment prepared by the Assessor of The City of Calgary (the City) and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER:	**067048108**
LOCATION ADDRESS:	**700 6th Avenue SW** **Calgary, Alberta**
FILE NUMBER:	**71202**
ASSESSMENT:	**$76,230,000**

This complaint was heard on 13th day of August, 2013 at the office of the Calgary Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom6.

Appeared on behalf of the Complainants:

- **C. Hartley** **Agent, Colliers International Realty Advisors, Inc.,**
- **A. Farley** **Agent, Colliers International Realty Advisors, Inc.,**

Appeared on behalf of the Respondent:

- **E. Borisenko** **Assessor, City of Calgary**

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

[1] Neither party objected to the composition of the Board as introduced at the hearing.
[2] All disclosure materials were received in a timely fashion, as legislated under the Act.
[3] The Board noted a duly executed Agent Authorization Form on file.
[4] No further preliminary matters were raised by either party.
[5] A dissenting opinion by the Presiding Officer is attached.

Property Description:

[6] The subject property, known as the Bantrel Tower, is a 22 storey office high rise located at 700 6th Avenue SW in the downtown commercial core of Calgary (DT2). It was built in 1968 and comprises 224,483 square feet (sf) of assessable space. The subject is currently assessed as a B quality office building, using the income approach to value, with an applied office rental rate of $19 per-square-foot (psf), and an applied capitalization rate (cap rate) of 5%, for a total assessment of $76,230,000.

Issues:

[7] The Complainant identified one matter on the Complaint Form as under complaint, the assessment amount. During the hearing the Complainant indicated he was requesting a different assessment amount ($42,800,000) than originally noted on the Complaint Form ($45,738,000). The Complainant then raised the following issues for the Board's consideration:

1) What is the correct quality classification for the subject property: the assessed 'B' or the requested 'B-'?

2) What is the correct capitalization rate to apply against the subject property: the assessed 5.0% or the requested 6.5%?

Complainants' Requested Value: $42,800,000

<u>Board's Decision</u>: For the reasons outlined herein the Board reduces the current assessment of the subject property from $76,230,000 to **$55,620,000** ($57,050,000 minus a revised exempt portion of $1,430,000).

Legislative Authority, Requirements and Considerations:

[8] A Composite Assessment Review Board (CARB) derives its authority from the *MGA*, Revised Statutes of Alberta 2000, Section 460.1, which reads as follows:

> (2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

Section 293 of the *MGA* requires that :

> (1) In preparing an 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.

Section 2 of the *Matters Relating to Assessment and Taxation Regulations* (the *MRAT)* states:

> (2) An assessment of property based on market value
> (a) must be prepared using mass appraisal,
> (b) must be an estimate of the value of the fee simple estate in the property, and
> (c) must reflect typical market conditions for properties similar to that property.
>
> 4(1) The valuation standard for a parcel of land is
> (a) market value, or
> (b) if the parcel is used for farming operations, agricultural use value.

Position of the Parties

Issue #1: What is the correct quality classification for the subject property: the assessed B or the requested B-?

Complainant's Position on Issue #1:

[9] The Complainant began by noting that the subject property's assessment increased by $46,660,000 (58%) over last year's assessment, arguing that the moderate increase in Calgary's downtown market activity experienced over the past year does not justify such a dramatic assessment increase over one year.

[10] The Complainant provided a table of recent leasing rates within the subject building [Exhibit C1, p.19]; specifically, the three most recent leases dated October 2011, January 2012, and February 2012, reflecting rental rates of $16.00, $13.00, and $14.00 psf respectively, with mean/median rates of $14.33 and $14.00 psf respectively.

[11] The Complainant also provided an equity chart of 30 lease comparables from three other B- quality buildings in DT2 [Exhibit C1, p.28] showing mean/median lease rates of $14.10 and $15.00 psf respectively. The Complainant noted that one of these properties, the Britannia Building, is located directly across the street from the subject.

[12] The Complainant provided exterior pictures of the subject and the above-noted comparable properties, as well as assessment summary sheets for each building [Exhibit C1, pp.30-39].

[13] The Complainant also submitted a series of equity tables [Exhibit C1, pp.43-47] comparing various physical characteristics (age, net rentable area, etc.) of B quality versus B- quality buildings against the subject property. The subject is the oldest of all properties in the

entire B quality inventory, ranging in year of construction from 2003 to 1968, with the median year being 1978. In the B- quality inventory, the subject is third oldest of seven buildings ranging in date of construction from 1983 to 1958, with the median year being 1972.

[14] In rebuttal, the Complainant noted that the development permits referred to by the Respondent for the subject building were issued to individual tenants for lease-specific redevelopment projects in their respective office spaces; the subject property itself has not undergone any comprehensive building improvement by the property owner since its original construction in 1968.

[15] In summary, the Complainant argued that the subject building leases more closely to properties in the B- quality category, and should therefore be re-classified accordingly.

Respondent's Position on Issue #1:

[16] The Respondent submitted market lease data for the subject property [Exhibit R1, pp.24-31], as well as equity tables for B quality properties in DT2 and DT3 (including the subject building [Exhibit R1, pp.48-49]), showing mean/median/weighted mean lease rates of $16.83, $16.00, and $17.47 psf respectively for all leases, and $17.41, $16.18, and $20.12 psf respectively for 2012 leases.

[17] The Respondent also submitted two tables showing assessment psf values for 32 B quality properties and 21 B- quality properties showing mean/median/weighted mean values of $382, $382, and $385 psf respectively for B quality buildings, and $322, $320, and $312 psf respectively for Class B- quality properties.

[18] The Respondent further provided several pages of development and building permits [Exhibit R1, pp.15-23], issued within the subject property between 2010 and 2013 for interior improvements to the property, which the Respondent relied upon in support of the City's position that the combined effect of these renovations was to add significant value to the subject building, notwithstanding its date of construction.

[19] In summary, the Respondent concluded that foregoing evidence supported the City's position that the subject is properly classified as a B quality building.

Board's Findings and Reasons for Decision on Issue #1:

[20] Having carefully considered the evidence and arguments presented by both parties at the hearing, the Board is persuaded by the evidence of the Complainant that the subject more closely performs as a B- quality property, giving consideration to its age, size, and leasing capacity. While it is larger than a typical B- quality building, the Respondent's own evidence [Exhibit R1, pp.48-49, and pp.60-61] supports the Complainant's request.

[21] With respect to the development permits submitted by the Respondent, the Board accepts the Complainant's rebuttal statements clarifying that these permits were individual, site-specific tenant improvements that are commonplace in commercial lease environments when one tenant vacates and another tenant leases a given office space. As such, the monetary investment incurred by each tenant attached to an individual permit may or may not add lasting, permanent value to the subject building as a whole, depending on what successive tenants choose to do with that particular space in the future.

[22] Thus, the Board reduces the office rent to $15.00 psf and increases the vacancy allowance to 8.25%.

Issue #2: What is the correct cap rate to apply against the subject property: the assessed 5.0% or the requested 6.5%?

Complainant's Position on Issue #2:

[23] The Complainant presented written submissions and verbal testimony arguing that the City erred in the development of its 2012 assessment year cap rates for the various classes of downtown office properties, arguing that cap rates for all classes were incorrectly derived at 6% for A quality buildings, 5% for B quality buildings, and 5.5% for C quality buildings.

[24] The Complainant relied on MGB Board Order 140/01 in summarizing the proposition that *"superior properties should have lower capitalization rates than inferior properties, as capitalization rates are, in part, a function of risk. Therefore, lower risk properties should have lower capitalization rates. This is clearly not the case in how the City of Calgary has assessed properties in 2013."* [Exhibit C1, p.56]

[25] The Complainant advanced three basic arguments to support their request for the Board to increase the existing 5% cap rate in favour of their proposed 6.5% rate (no lower than 6%) for all B quality properties in the downtown core:

1) Exclude All Portfolio Sales:

   The first argument was a request to exclude all portfolio sales in the City's cap rate study. The Complainant submitted a number of Board and MGB decisions which grappled with the reliability of certain portfolio transactions – particularly those involving numerous properties sold across various cities and provinces throughout the country.

   Noting that the Board has ruled both to exclude and at other times to accept portfolio sales, the Complainant left it to the Board's discretion whether or not to accept them in the subject complaint. However, the Complainant vehemently argued that the main reason for the "irrational and counter-intuitive" hierarchy of cap rates across the three downtown office classes in this assessment year was because these portfolio sales were not truly reflective of *typical market value* for the transacted properties in their respective categories.

   The Complainant also raised an argument in rebuttal that the AGT Telephone Building used in the City's Cap Rate study ought to be excluded for two reasons: it was a different classification (Class "I") historic property which would never compete in the same market as typical Class B buildings, and it was outside the base valuation period for the 2012 assessment year (sold on April 13, 2011).

2) De-stratify and Apply Historic Hierarchy Spreads:

   In the alternative of excluding all portfolio sales (which would exclude all B quality properties from the study), the Complainant argued that the Board ought to *"de-stratify"* the A and B properties altogether, evaluating them as one category for the purpose of the current assessment year.

   The Complainant then proposed assigning to each classification the appropriate *"historic hierarchy spread"* between the two quality ratings, and presented a graph depicting that historic spread – which until the current assessment year ranged from 0.5% to 1.5%, with the mode being 0.5%. [Exhibit C1, p. 59].

   Based on this analysis, and given the 6% cap rate assigned to the A quality properties, the Complainant requested a cap rate for the subject of 6.5%.

3) Inconsistent Valuation Parameter:

The final argument advanced by the Complainant to support a higher requested Cap Rate for B quality properties was the inconsistent, and therefore incorrect, NOI parameters used by the City to derive the overall Cap Rate for that class of properties. The Complainant submitted that for sales which transacted in 2011 the City's accepted practice is to calculate typical parameters based on a "retrospective" July 1, 2011 valuation date, using data collected from July 1, 2010 through to June 30, 2011. Yet for sales which transacted in 2012, the City's practice is to calculate typical parameters based on a "forward-looking" July 1, 2012 valuation date, using data collected from July 1, 2011 through to June 30, 2012

The Complainant objected to the City's use of two different valuation standards (one for 2011 sales and another for 2012 sales), arguing that this inconsistent application of valuation parameters produced significantly different NOI's and Cap Rates for several 2011 sales (Exhibit C1, p.58 versus R1, p.54 – note Gulf Canada Square, Rocky Mountain Place and Five Ten Fifth).

The Complainant objected to this retrospective methodology for two reasons:

(1) Dated Lease Data: the Complainant submitted that for the three above-noted 2011 sales, the City calculated typical NOIs using dated lease data that was in some cases 18 and up to 24 months old (relative to the standard July1, 2012 valuation date).

(2) Inconsistency: applying one standard (with certain value inputs) for 2012 sales and another standard (with different value inputs) for 2011 sales results in an inaccurate overall Cap Rate being applied to the subject property, whose assessment is being estimated as of the July 1, 2012 valuation standard mandated by legislation (not the July 1, 2011 valuation date used by the City for certain sales).

This means that the value inputs used to determine the NOIs for deriving a typical Cap Rate for B quality properties ought to be the identical value inputs used when applying that Cap Rate against the subject assessment as of July 1, 2012. In this case, the Complainant argued that the value inputs were different, inconsistently applied, and therefore flawed.

[26] The Complainant submitted CARB Decisions 70517/P-2013 and 71535P-2013 in support of their argument in favour of consistently applying the same forward-looking, July 1, 2011 to June 30, 2012, base valuation period to all aspects of the Cap Rate analysis.

[27] The Complainant also submitted evidence [Exhibit C2, pp.71-79] that the Respondent itself has in past years employed the forward-looking methodology to derive typical cap rates for identified retail properties in the city, and that the decision to use a retrospective methodology for the 2011 sales in the subject complaint was incongruent with their own previous policy, and inconsistent with sound appraisal principles.

[28] The Complainant submitted their own cap rate analysis [Exhibit C1, p.58], including all the same sale transactions as the City's study, excepting two sales: the AGT Telephone Building (B quality), and the Northland Building (C quality) which the City included but the Complainant did not.

[29] Based on using one consistent valuation period for all NOI parameters and inputs (being that of July 1, 2011 to June 30, 2012) the Complainant's Cap Rate study resulted in a mean

Cap Rate value of 5.60% and a median value of 5.39%.

[30] The Complainant submitted a new pro-forma analysis [Exhibit C1, p.17] utilizing their requested $15 psf rental rate, $8.25% vacancy rate and 6.5% cap rate to generate a proposed assessment value of $42,807,273, truncated to $42,800,000.

Respondent's Position on Issue #2:

[31] The Respondent submitted the City's cap rate study (Exhibit R1, p.54), which examined 16 downtown properties with mean/median values of 4.65% and 4.82% respectively for the base valuation period, and mean/median values of 5.07% and 5.02% respectively for 2012 sales only (truncated six month period).

[32] In response to the Complainant's first and second arguments, to exclude all portfolio sales as being unreliable indicators of typical market value, the Respondent asserted that there was categorically no evidence proffered by the Complainant to prove that these portfolio sales were anything but valid market transactions, reflecting typical market values for B quality office buildings in the downtown core.

[33] The Respondent submitted into evidence the following documents in support of *each of* the portfolio sales relied upon: a RealNet Transaction Summary, a Commercial Edge Transaction Summary, a Land Titles Transfer of Land document, a sworn Affidavit of Value document, and a Corporate Registration Search summary.

[34] The Respondent further submitted numerous CARB and MGB decisions (including a number of recent 2013 decisions) in support of their argument to include the portfolio sales.

[35] In response to the Complainant's third argument (inconsistent valuation parameters), the Respondent indicated that the City's policy is to use NOI inputs and parameters closest to the transaction dates of the sales used in their cap rate study. Thus, sales occurring between July 1 and December 31 of 2011 would be analysed using input parameters developed for the July 1, 2011 valuation date.

[36] Similarly, sales occurring between January 1 and June 30 of 2012 would be analysed using input parameters developed for the July 1, 2012 *valuation date*. The Respondent asserted that the input data utilized in each case was typical data merely applied to the valuation period closest to the transaction date of each respective sale, which in the City's estimation produces more accurate valuation outcomes than merely applying one standard valuation period to all sales.

[37] When asked why the City chose to use a retrospective methodology for their capitalization rate study, the Respondent stated that the City believes this method "produces more accurate" results.

[38] In response to the Complainant's evidence noted in paragraph (par.) 26 above, the Respondent asserted that those assessments were from 2011 for retail properties in a different economic zone than the downtown office property under complaint in the subject hearing.

Board's Findings and Reasons for Decision on Issue #2:

[39] The Board thoroughly reviewed each of the arguments presented by the Complainant to vary the existing Capitalization Rate. Given the fact that the entire inventory of sales transacted in the B quality category were all portfolio sales, it would be a weighty matter to exclude every

sale in the entire class, without substantive reason to warrant such a move.

[40] In the subject hearing, the Board finds a lack of clear, compelling evidence to justify excluding these sales. While the Complainant raised some question in the minds of the Board as to how "typical" these sales actually were (given the uncharacteristic hierarchical spread between the classes), sufficient compelling evidence was lacking to justify varying the Cap Rate based on this argument alone.

[41] The Board notes that in CARB 72030P-2013 (one of the portfolio sales, 521 3 Avenue SW), the purchaser's representative did not raise the issue that this transaction was in any way an atypical sale, but rather confirmed it to be a valid market transaction.

[42] With respect to the Complainant's second argument, to de-stratify the two classes, the Board finds the merit of this proposition unsupportable, since there were sufficient sales to analyse in the B quality category, which differs dramatically from the A quality category.

[43] With respect to the Complainant's third argument, inconsistent valuation parameters, restricting its comments to the cap rates for "A" and "B" quality buildings, as the C's were only mentioned in passing and not really part of the argument, the Board finds the following:

[44] Excluding the two sales the Complainant objected to in par. 27, since the C's are not a part of this complaint and the City did not include the AGT Telephone Building in their final analysis, both parties used the same 11 sales to derive their cap rates [C-1, pp. 56-58 and R-1, pp. 54-55]. The only difference is the NOI used to determine the cap rate for three of the sales; Rocky Mountain Plaza, Five Ten Fifth and Gulf Canada Square, all three of which occurred in the later part of 2011. On p. 56 of C-1 the Complainant states that "*Properly prepared, the assessed income would be the assessed income for the year of the transaction. So, for sales within one year of the base year (July 1, 2011 – June 30, 2012) the appropriate income parameters would be those utilized in the calculation of the 2013 assessments*".

[45] This is where the Board perceives some difficulty. The Assessment Year is regulated; it is the year prior to the Taxation Year. The Valuation Date and the Condition Date are also regulated, July 1 and December 31 of the Assessment Year. There is no regulated "base year". July 1 to June 30 are merely the timelines most commonly employed to collect the data used to determine "typical" values as of July 1st. The Complainant is advocating using 2011 and 2012 typicals for sales that occurred in 2011, depending on whether they occurred before or after July 1st. On the other hand, **all** property values for the 2011 Valuation Year are determined using the typical parameters for 2011, derived from data collected up to June 30 2011. The same holds true for 2012. The Complainant is not objecting to this methodology as it pertains to the Assessments in the valuation year or the sales for capitalization rate analysis that occurred in the first half of 2011.

[46] All typical parameters are developed from data gathered over two calendar years whether they be rents, vacancy, operating costs, etc. Why would capitalization rates be any different? The cap rate is merely part of a mathematical formula expressing a relationship between income (NOI) and value (Sale Price). For Assessment purposes (Mass Appraisal) the income in question is that which the property can be typically expected to attain in the year that the sale took place. This is the same process used to determine the value of the property in that year. That is consistent, unlike the Complainant's approach of using the current year's income for valuation but the following year's income to develop a cap rate.

[47] Even were the Board to accept the Complainant's argument, the resulting changes still do not support the requested capitalization rate of 6.5%.

Board's Decision:

[48] For the reasons outlined herein, based on a rental rate reduction to $15, an increase to the vacancy allowance to 8.25% and confirming the cap rate at 5.0%, the Board varies the current assessment of the subject property from $76,230,000 to **$55,620,000 (**$57,050,000 minus a revised exempt portion of $1,430,000)

DATED AT THE CITY OF CALGARY THIS 17th **DAY OF** October **2013.**

B. Jerchel
Board Member

DISSENTING OPINION

Presiding Officer V. Higham:

[49] **Legislative Authority, Requirements and Considerations:**

Supreme Court of British Columbia

Westcoast Transmission Co. v. Vancouver Assessor, Area No. 9 [1987] B.C.J. No. 1273 [Westcoast]

The Assessment Process

It is common ground that the income approach is an appropriate and, except in unusual circumstances, the most appropriate method of assessing the actual value of commercial property such as that under consideration here. ...

***For this process to work, it is evident that the appraiser must make some choices about the concepts to be used, and then to use them consistently. ...I stated above that the concepts used, in developing capitalisation rates for application to the subject, should be used consistently** [emphasis added].*

[50] I respectfully submit that while I concur with my colleagues relative to the first issue herein, as well as the first two arguments of the second issue, I am committed to different conclusions relative to the third argument advanced by the Complainant in their cap rate submissions, being the "Inconsistent Valuation Parameter" argument as it appears in the majority decision at p.6 herein.

[51] Firstly, I respectfully differ with my colleagues as to the nature of the argument submitted by the Complainant on this issue. My view of the Complainant's objections to the "retrospective" valuation methodology is not that the parameter was *inconsistently* applied, but rather that the retrospective parameter applied by the City to certain 2011 sales used *dated lease values*, resulting in an incorrect typical cap rate applied to the subject.

[52] The Complainant repeatedly argued at the hearing, in his own words: "A fundamental flaw exists. The City is using lease data (July 2010 to July 2011) to derive NOIs which all precede the sale dates. Therefore the City's NOIs are not reflective of market value because it's all data *preceding* the sales." [Personal hearing notes, at p.2]

[53] Thus, I would title that portion of the Complainant's argument, "Dated Valuation Parameter" and proffer the following dissent in respect of that argument.

Dated Valuation Parameter:

[54] Having carefully considered the evidence and arguments advanced by both parties, I find that the City erred in using an incorrect, dated valuation parameter to calculate the NOIs of certain sales comparables in its cap rate study, which produced an incorrect overall cap rate applied to all B quality office buildings in the downtown, including the subject property.

[55] The sales in question transacted between July 1 and December 31, 2011, and the issue before the Board is whether these sales should have been analysed using the forward-looking July 1, ***2012*** valuation parameter advocated by the Complainant, or the retrospective July 1, ***2011*** parameter utilized by the City.

[56] I am persuaded that the City erred in using a retrospective valuation parameter, analysing the affected sales using data gathered between ***July 1, 2010 and June 30, 2011***. This dated valuation analysis produced incorrect NOI values, and artificially low typical cap rates for those individual sales, which led to an incorrect overall cap rate for the entire category of B quality properties for the current assessment year.

[57] This factor also contributed to the intuitively illogical outcome for downtown office buildings this year wherein B quality properties reflect a lower cap rate at 5% than A quality buildings at 6%. Even C quality buildings in the downtown have a lower cap rate this year at 5.5% than the A's, owing arguably at least in part to the City's use of a retrospective valuation parameter which skewed the results. There were four affected sales used by the City in its cap rate study (one A, two Bs, and one C), affecting typical cap rates across all three quality classifications.

[58] Examining the evidence submitted by both parties (Exhibits C1, p.58 and R1, p.54), I note that for the two B quality properties which sold in the last six months of 2011, the forward-looking parameter produced cap rates of 6.21% and 6.60%, while the retrospective parameter resulted in cap rates of ***3.84% and 4.83% respectively*** – *for the same two sales.* I am satisfied that these rates are artificially low, owing to the retrospective valuation parameter.

[59] The difference lies in the City's use of ***dated lease data*** (going as far back as mid-2010 notwithstanding the legislated valuation date of July 1, 2012), which produced incorrect cap rates for these affected sales, resulting in an unfair assessment of the subject property.

[60] I further note in Exhibit R1 at pages 48-49, that the City itself used the standard "base valuation period" of July 1, 2011 to June 30, 2012 to analyse typical rental rates for B quality properties in the downtown, but elected to rely ***only upon the 2012 lease data*** results to derive its typical rental rate of $19 psf for that category of buildings.

[61] This typical rental rate, based on data gathered over the immediate ***six months prior to*** the valuation date July 1, 2012, was applied to the subject; a typical cap rate was also applied to the subject of 5%, derived using the affected sales described in par. 57 above, analysed from data gathered over a period commencing ***24 months prior to*** the valuation date.

[62] Thus, I find the City's use of different and dated valuation parameters for the typical inputs applied to the subject (in this case, rental and cap rates) to be inconsistent with the spirit and intent of the *Westcoast* decision, which stands firmly for the proposition that all valuation parameters and inputs used in the derivation of typical factors must be *consistently derived* and applied in like manner to the subject property.

[63] The Justice in *Westcoast* was eminently clear:

> *For this process to work, it is evident that the appraiser must make some choices about the concepts to be used,* ***and then to use them consistently. ... I stated above that the concepts used, in developing capitalisation rates for application to the subject, should be used consistently*** [emphasis added].

[64] The City's methodology is also in direct conflict with two recent CARB decisions (CARB 70517/P-2013 and Revised CARB 71535P-2013), which harmonize with *Westcoast* in support of the Complainant's requested forward-looking methodology.

[65] Thus, I am persuaded that all sales transacted in the base valuation period for the 2012 assessment year ought to be analysed using consistent valuation inputs and parameters – namely analysing data *closest to* the legislated valuation date to better reflect typical market activity at that snapshot in time.

[65] To quote from Revised CARB Decision 71535P-2013:

1) "A sale in November 2011 (being in the 2012 analysis period) should use typical NOI data for the 2012 analysis period;
2) A sale in August, 2011 (being in the 2012 analysis period) should use typical NOI data for the 2012 analysis period;
3) A sale in May 2011 (being in the 2011 analysis period) should use typical NOI data for the 2011 analysis period; and
4) A sale in November 2011 (being the 2012 analysis period) should ***not*** use typical NOI data for the 2011 analysis period, because the typical NOI data [for the 2011 analysis period] includes dated leases, in this case from 2010." (Revised CARB 71535P-2013, at par. 41)

[66] Therefore, I find that the correct valuation parameter to use for those affected sales challenged by the Complainant is a forward-looking one, using the standard base valuation period (July 1, 2011 to June 30, 2012) to gather and analyse comparable data used in the derivation of typical cap rates.

[67] There certainly may be exceptions to this practice where insufficient data exists, or where a Board finds reasonable grounds upon which to accept dated or post-facto data, but for the purpose of the subject complaint, the base valuation period should have been used in the City's cap rate analysis for those affected sales.

[68] I therefore accept the Complainant's cap rate calculations (Exhibit C1, p.58), which generated median/mean values of 5.39% and 5.60% respectively for B quality comparables transacted in the base year, and find that a reasonable rounding of these figures justifies an overall typical cap rate for B quality properties of 5.5%.

Dissenting Decision:

For the reasons outlined herein, based on a rental rate reduction to $15 psf, a vacancy allowance increase to 8.25%, and varying the cap rate to 5.5%, I would reduce the current assessment of the subject property from $76,230,000 down to $51,866,780 (truncated to $51,860,000), minus a revised exempt portion of $1,300,000 – for a final assessed value of **$50,560,000**.

DATED AT THE CITY OF CALGARY THIS 17th **DAY OF** October **2013.**

V. Higham
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's Disclosure
3. C2	Complainant's Disclosure
3. C3	Complainant's 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 Administrative Use Only

Municipal Government Board Use Only: Decision Identifier Codes				
AppealType	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	High Rise	Income Approach	Net Market Rent/Lease Rates Vacancy Rates Capitalization Rates