



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:

Whiterock 441 5th Avenue SW Calgary Inc. (as represented by Altus Group Limited),
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Golden, PRESIDING OFFICER
T. Livermore, BOARD MEMBER
J. Pratt, 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: 068224500
LOCATION ADDRESS: 441 5 AV SW
FILE NUMBER: 72731
ASSESSMENT: \$19,990,000

This complaint was heard on the 2nd day of October, 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:

- S. Meiklejohn

Appeared on behalf of the Respondent:

- H. Neumann

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

- [1] There were no procedural issues.

Property Description:

[2] The subject property is an office high rise building located in the downtown DT1 market area. Built in 1973 the structure contains 59,774 square feet (sq. ft.) and is a B-class quality. There are no issues with the main floor retail and the building has no parking. An assessment was prepared using the Income Approach to value.

Issues:

[3] **Issue 1:** Does the method used by the City, to determine the rental rate component of the assessment, result in the correct assessment? A sub issue regarding the rental rate is a determination of the leases which should make up the data set to be used in the analysis of the rental rate. The most reliable statistical tool that best reflects the data is also a sub issue.

[4] **Issue 2:** Is the capitalization (cap) rate component applied to the subject parcel the correct rate? As a sub issue is the cap rate developed in an equitable manner?

[5] **Issue 3:** As a conclusion is the overall assessment of the subject property correct?

Complainant's Requested Value: \$13,540,000

Board's Decision: The assessment is confirmed at \$19,990,000

Board's Decision on Issue 1: The method used by the City, to determine the rental rate component of the assessment, has resulted in the correct assessment. All the leases for the assessment year are useful indicators of typical rental rates. Each statistical tool adds insight to the data set.

Position of the Parties

Complainant's Position:

[6] The Complainant presented the table of 35 leases used by the City to calculate the typical rent for the assessment (pg. 40, C-1). Each lease was signed within the assessment year and used in the initial analysis by the Respondent. The Respondent uses only the last 6 months of leases rather than the entire year of data and this yields a atypical rental rate.

[7] Since the assessment is conducted annually the data used should also be developed annually and therefore the entire year of leases should be used. Using 6 months is an arbitrary decision and yields the atypical result of \$19.00 per sq. ft.

[8] The requested rental rate is based on 2 points. When the analysis of the entire year of the leases available are used the result of the calculation is a mean of \$16.67 per sq. ft. and a median of \$16.00 per sq. ft. as well as a 2011 lease median of \$15.00 per sq. ft.

[9] A lower rental rate is appropriate as the subject has no parking which is reflected in a higher vacancy rate. These factors lead to the \$16.00 requested rental rate.

[10] The Complainant mentioned that other issues with the rental rate presented to the Board in file number 72646 should also be considered.

Respondent's Position:

[11] The Respondent presented the same table of leases as the Complainant in exhibit R- 1 pg. 14 and stated that these were all valid leases for the assessment year. All the leases were exposed to the market and represent the leasing market. The Respondent pointed out that when the full year of leases is reviewed, the data indicates an upward trend through the year. For example the weighted mean of the 2011 leases is \$14.89 per sq. ft. and the weighted mean of the 2012 leases is \$19.00 per sq. ft. This increasing trend was demonstrated in a graph on pg. 15 of R-1 where the leases are plotted, illustrating the market increase. The use then of the last 6 months of the leases better represents the increasing market rent trend.

Board's Reasons for Decision on issue 1:

[12] The Respondent has shown that even using the entire year's data \$19.00 per sq. ft. is supported and the Board agrees. Graphed rental rates demonstrate an increasing market. The Board also agrees that the trend through the year is an increase in overall rental rates. A typical rent rate as of July 1\12 is the requirement and although the data suggests that a \$16.00 per sq. ft. rate may have been appropriate toward the end of 2011, \$19.00 per sq. ft. is most likely reflective of the later part of the assessment year. This supports the assessed rental rate of \$19.00 per sq. ft.

[13] The Complainant produced insufficient evidence to demonstrate \$16.00 per sq. ft. was developed using a combination of the rental rate chart, and building condition. The Board gave little weight to the Complainant's evidence.

[14] In addition the Board notes that the rent roll for the subject shows two leases signed in 2012 for \$16.00 per sq. ft. and \$24.00 per sq. ft. or an average of \$20.00 per sq. ft. A post facto lease for \$34.00 per sq. ft. is also shown. This further supports the Respondent's rent rate.

[15] **Board's Decision on Issue 2:** The cap rate component applied to the subject parcel is the correct rate. Regarding the sub issue, the cap rate is prepared in an equitable manner.

Position of the Parties

Complainant's Position:

[16] As with file number 72646 the Complainant was of the opinion that the cap rate was incorrect for three reasons; firstly the cap rates for A class buildings were higher than B class buildings ignoring the hierarchy of building qualities this supported by 3rd party published cap rates. The rate was inequitable between classes of buildings, and thirdly the City applied the incorrect net operating (NOI) in determining the cap rate.

[17] The traditional hierarchy of classes of buildings would suggest that an A building because of its attributes would always carry a lower risk than B class. For example the Bow Building should not carry a risk greater than the subject. To demonstrate the error two 3rd party reports were submitted to the Board beginning on page 76 of exhibit C-1. Both Colliers International and CBRE suggest that an appropriate cap rate for 2012 would be between 6.25% and 7.25% rather than the Respondent's rate of 5%.

[18] An equity argument between classes was made by the Complainant. It was pointed out that A class buildings have a typical cap rate of 6% however the actual cap rate study presented on pg. 28 of R-1 showed a cap rate mean for Aclass buildings sold in 2012 at 5.46% then round up to 6% by the Respondent. In the same table B class buildings in the study were rounded down from 5.07% to 5%. The Complainant suggested that to be equitable, B class buildings should be increased .5% as happened with A class buildings.

[19] Lastly the Complainant argued that the method the Respondent used to calculate the typical NOI was in error. The Respondent was applying the wrong NOI to the sales and the cap rate was as a result improperly calculated.

[20] Respondent's Position

[21] The Respondent challenged the various assertions made by the Complainant. The hierarchy between A class and B class this year was not demonstrated in the cap rate study. The Respondent noted that an income calculation includes many factors. Page 30 of R-1 demonstrates that although the cap rate hierarchy is disturbed this year the overall values of the various classes displays the traditional hierarchy. Third party reports used to support the Complainant's position were unreliable as there were questions regarding the sources of data

and there was no understanding of the methods used to determine the cap rate.

[22] Cap rates for the two classes of properties were assigned in an equitable manner as the median cap rate of a class buildings was 5.87% rounded to 6%. Cap rates for B class buildings had a median of 4.82% rounded to 5%.

[23] In terms of the correct NOI to apply, the Respondents method ensured that the NOI applied to a sale was never more than six months from a sale date.

[24] In conclusion the Respondent pointed out that even with the three concerns with the cap rate the Complainant could not clearly state how the its cap rate was developed.

[25] **Board's Reasons for Decision on Issue 2**

[26] As In file number 72464 the Board rejected the first two points of contention presented by the Complainant. Third party reports in this case were insufficient to support an adjustment to the cap rate. The Complainant also do not indicate why a 6.25% rate was developed from the reports range of cap rates 6.25% to 7.25% other than it being the lower extreme of the range. The Board was not able to determine the source of materials used in the 3rd party reports or the methods used to develop the cap rate. The second issue being the equity of the application of the cap rate to the classes of buildings was given little weight as the argument seems to be more about the rounding of numbers and the Respondent was able to demonstrate that the rounding exercise was reasonable and no inequity exists.

[27] The cap rate equity argument was weak as the cap rate was rounded in each case. Six statistical calculations reveal a range of rates of between 4.8% to 5.07% and a 5% cap rate was adopted for B class buildings. The same calculation for A class buildings had a rates between 5.43% and 5.87% and the rate of 6% was adopted

[28] The third point regarding the application of the proper income data to the various sales, may have merit however the Board notes that three sales used in the calculation are within a period of time where there is no dispute over the method used. These sales have an average cap rate of 5.15%, supporting the Respondent's cap rate. The Board was satisfied that the requested cap rate is not supported and the discussion of the application of the NOI was not warranted.

[29] **Board's Decision on Issue 3:** The overall assessment of the subject property is correct.

[30] **Position of the Parties**

[31] **Complainant's Position**

[32] Firstly the Complainant pointed out to the Board that the assessment for 2013 increased over 112% from the previous year. The Complainant used the requested factors in an income

calculation and developed the requested assessment on pg. 32 of C-1. In the Complainant's opinion the Board could just accept a change to the rent rate and lower the assessment without having to accept changes to the cap rate.

Respondent's Position

[33] The Respondent tested the Complainant's requested inputs in an ASR analysis using three similar buildings. The resultant ASR's were between .64 and .74 being far below the accepted range.

[34] The Board was directed to the sale of 521 3 AV. SW which the Respondent felt to be somewhat similar in nature. The sales comparable is sale priced at \$368.22 per sq. ft, while the subject is assessed at \$334.00 sq. ft. This is compared to the requested assessment of \$226.00 per sq. ft.

Board's Reasons for Decision on Issue 3

[35] In the end it is the task of the Board to determine market value of the subject property. In this decision the Board has rejected the arguments regarding the inputs to the income calculation. However even when the requested changes are made the Respondent's ASR test of the request further demonstrates that the assessment is correct. The ASR results indicate that the property would be considerably under assessed. As a result the assessment is confirmed.

[36] The Board used the sales comparable as an indicator of market value. It is noted that the comparable is dissimilar in size and the parking however the assessed value of the subject is \$34.00 per sq. ft less than the comparable which may in part due to the parking. This further weakens the argument for the requested value.

[37] Finally the Board notes that the rent roll on pg. 33 C-1 has 3 leases in subject building signed 2012, two post facto in October of 2012, and averaging \$18.66 per sq. ft. offering some support to the assessment.

DATED AT THE CITY OF CALGARY THIS 28th DAY OF November 2013.



Tom Golden

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.*

Roll	Address	Subject	Issue	Detail	Sub Detail
068110204	407 8 AV SW	office	income	Rent Rate, Cap rate	