

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:

Frhr Von Twickel, Georg Maria Hubertus Hanno Rudolf Albert
(as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER
J. Rankin, 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:	113004105
LOCATION ADDRESS:	7180 11 ST SE
FILE NUMBER:	72783
ASSESSMENT:	\$4,060,000

This complaint was heard on the 31st day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8

Appeared on behalf of the Complainant:

- M. Cameron (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- M. Ryan (City of Calgary)
- R. Tharakan (City of Calgary)

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

- [1] There were no concerns with the board as constituted.
- [2] The parties have not visited the site.
- [3] The parties have not discussed the file.

Preliminary Matter:

[4] The Respondent submitted that the Complainant has used information on pages 30 through 36 of C-3, that was not properly disclosed. The Respondent, citing Matters Relating To Assessment Complaints Regulation (MRAC) section 9(2), requested the board not hear that evidence. The Complainant acknowledged the information was not properly disclosed.

[5] The Board granted the request and decided that it would not hear any evidence with respect to pages 30 through 36 of C-3. MRAC section 9(2) requires that, *A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.*

Property Description:

[6] The subject property is a 1.11 acre parcel located in the East Fairview Industrial community in SE Calgary. The site is improved with a 26,106 square foot (sf) lowrise suburban office building that was constructed in 1982 and is classified as 'C' quality. The subject is assessed using the Income Approach to value with the net operating income (NOI) capitalized at the rate of 6.75%.

Issues:

[7] An "assessment amount" and "an assessment class" were identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely: "The capitalization rate should be increased to 7.25%".

Complainant's Requested Value: \$3,140,000 (Complaint Form)
\$3,780,000 (Hearing)

Board's Decision:

[8] The 2013 assessment is confirmed at \$4,060,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000, Section 460.1:

- (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).

MGA requires that:

- 293(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.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

- 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.

Board's Decision in Respect of Each Matter or Issue:

Issue: What is the capitalization (cap) rate to be used in the Income Approach to value to determine the market value, for assessment purposes?

Complainant's Position:

[9] The Complainant's Disclosure is labelled C-1.

[10] The Complainant, at page 22, provided a table titled, 2013 Suburban B Office building CAP Rate Study. The table contains details of 4 sales that occurred in the period October 18, 2010 to November 15, 2011. The cap rates ranged from 9.52% to 6.69%. The median cap rate was 7.33% and the average cap rate was 7.72%. The Complainant requested a cap rate of 7.25% be applied in the assessment.

[11] The Complainant submitted that the first 2 of the 4 sales have been used by both parties in their analysis. The Complainant acknowledged it went back to the previous year sales for its other two sale comparables. The Complainant noted that the sale price range of its 4 comparable sales is \$124.51 to \$187.04 psf, and that if the requested cap rate of 7.25% is applied to the subject, the estimated market value would be \$144 psf, within the sales range.

[12] The Complainant, at page 42(C-2) provided a table titled 2013 Suburban Office Capitalization Rate Summary, as prepared by the City. The Complainant noted that the Respondent used the sales at 11500 29 ST SE (2008 construction & cap rate of 5.30%) and 3402 8 ST SE (2003 construction & cap rate of 5.30%) while it had not used them, because those comparables are newer and more modern than the subject.

[13] The Complainant, at page 45(C-2), provided a table titled City of Calgary 2013 Cap Rate Study to demonstrate that the market will pay more for more recently constructed buildings. The Complainant noted that the Respondent's 2 comparables sold for \$204 and \$219 psf respectively, while the 2 common comparables (older construction) sold for \$133 and \$124 psf. The Complainant concluded that there is more risk in purchasing an older building therefore they sell with a higher cap rate.

[14] The Complainant, at pages 54 to 56(C-2), provided a sample list of 102 Suburban Offices ('B+', 'B' and 'B-' class) noting that only 9% were constructed in 1998 or newer. The Complainant submitted that the subject is a typical 'B' class based on its year of construction (1982). The Complainant submitted that the City Cap Study uses 2 sales of modern buildings which are only 9% of the inventory. The Complainant concluded that the City Cap Study does not represent early 1980's vintage properties.

Respondent's Position:

[15] The Respondent's Disclosure is labelled R-1.

[16] The Respondent submitted that 2010 sales should not be included in the Cap Rate Study because they are dated and that it would distort the overall average and not capture the market value as of July 1, 2012. The Respondent submitted that it would be more appropriate to look at postfacto sales, if the sample size is too small to determine a representative cap rate.

[17] The Respondent, at page 25, provided a table titled 2013 Suburban Office Capitalization Rate Summary. The table contains details of all 'A', 'B' and 'C' class suburban office building sales, in the period August 5, 2011 to June 1, 2012. There are 3 'B' class and 1 'C' class sale, that are considered together, with cap rates ranging from 5.30% to 9.52%. The 'B' and 'C' median cap rate is 6.01% and the 'B' and 'C' average cap rate is 6.71%. The Respondent noted the subject is assessed using a cap rate of 6.75%.

[18] The Respondent, at page 67, provided two tables that compare both parties Cap Rate Studies. The City of Calgary Cap Rate Study produces assessment to sales ratios (ASR) ranging from 0.78 to 1.38 with a median ASR of 1.00, while the Complainant's Cap Rate Study produces ASRs ranging from 0.73 to 1.28 with a median ASR of 0.93, an inferior result.

[19] The Respondent, at page 228, provided the City of Calgary Cap Rate Study, with the addition of two postfacto sales, to show trending of 'B' class quality Suburban Office Properties. The Respondent noted the sale of 2905 12 ST NE, the best comparable ('B' quality, 1981 construction) produced a cap rate of 6.76%.

[20] The Respondent, at pages 279 and 280, provided "paired sales" information to demonstrate that the market for 'B' class buildings was trending upwards.

Complainant's Rebuttal Position:

[21] The Complainant's Rebuttal Disclosure is labelled C-3.

[22] The Complainant, at page 28, reproduced the Complainant's Cap Rate Study and recalculated the ASR's using the 2013 NOI and the requested cap rate of 7.25% and concluded the requested cap rate of 7.25% produced better ASR results than the assessed cap rate of 6.75%.

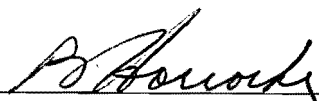
Board's Reasons for Decision:

[23] The Board finds the Respondent's evidence more compelling. The sales are more current and produce a superior assessment to sales ratio.

[24] The cap rate to be used in the Income Approach to determine the market value for assessment purposes, is confirmed at 6.75%.

[25] The Board notes this decision is contrary to the decision reached in CARB 72951P/2013. However, in that decision there was no evidence presented from the Respondent to support the assessment.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF November 2013.



B. Horrocks

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 Cap Rate Study
4. C2A	Complainant Cap Rate Study
5. C3	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 Administrative Use Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Office	Low Rise	Income Approach	Cap Rate