Calgary Assessment Review Board
DECISION WITH REASONS

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act (MGA)*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000.

between:

Dundeal Canada (GP) Inc.
(as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
J. Lam, BOARD MEMBER
Y. Nesry, 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: **067044107**

LOCATION ADDRESS: **839 5 AV SW**

FILE NUMBER: **73428**

ASSESSMENT: **$41,810,000**

This complaint was heard on the 16th day of October, 2013 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:

- *S. Meiklejohn*

Appeared on behalf of the Respondent:

- *D. Grandbois*

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the *MGA*. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

[2] The subject property is a predominantly office building known as "Atrum I". The subject is located in the "Downtown Two (DT2)" economic zone of downtown Calgary. According to the information provided, the property is an 8 story building that was constructed in 1978. The building has a floor plate area of 14,345 square feet (sf), a total area of 109,894 sf, is not "Plus 15" connected, contains 84 parking stalls and is situated on an assessable land area of 18,188 sf.

[3] The subject is assessed using the Income Approach to value and is given a class B quality rating. Accordingly, an assessed net rental rate of $19.00 per sf is applied to the 100,004 sf of net rentable office space. Along with parking and retail spaces, and with allowances for vacancy rates (4.75% for office space), operating costs ($17.00 per sf for office space), and non-recoverable rates of 2%, a Net Operating Income (NOI) is calculated and capitalized for assessment purposes using a 5.00% capitalization rate (cap rate). The assessment amount under complaint is net of exempt space valued at $2,340,000.

Issues:

[4] The Complainant addressed the following issues at this hearing:

a) The assessed net rental rate applied to the office space should be $16.00 per sf.

b) The assessed cap rate applied in the Income Approach to value should be increased to 5.25%.

Complainant's Requested Value: $34,850,000

Board's Decision:

[5] The complaint is denied and the assessment is confirmed at $41,810,000.

Legislative Authority, Requirements and Considerations:

[6] As in accordance with the *MGA, Section 467(3),* a CARB *must not alter any assessment that is fair and equitable, taking into consideration*

a) *The valuation and other standards set out in the regulations,*

b) *The procedures set out in the regulations, and*

c) *The assessments of similar property or businesses in the same municipality.*

Position of the Parties

ISSUE 1: The assessed net rental rate applied to the office space should be $16.00 per sf.

Complainant's Position:

[7] The Complainant provided a 149 page disclosure document that was entered into the hearing as "Exhibit C1". In addition, the Complainant requested that all evidence and argument provided on this issue from File #72691 be brought forward to this hearing. The Complainant, along with Exhibit C1 and Exhibit C1 from File #72691, provided the following evidence and argument with respect to this issue:

[8] An April 1, 2013 tenant roll of the subject property analyzing lease rates for the office spaces. The summary of the tenant roll indicated a range of lease rates from $10.00 per sf to $31.45 per sf, with a weighted average lease rate of $11.07 per sf, an average lease rate of $15.46 per sf and a median lease rate of $13.00 per sf.

[9] A chart analyzing lease rates of B class buildings in the DT2 economic zone. The chart compared 17 properties, 354,178 sf of office space and 63 leases of comparable buildings including the subject, with lease start dates ranging from July 1, 2011 to June 30, 2012. It was indicated that the chart was the same chart used by the Respondent in its analysis but with a significant difference. The analysis excluded two leases in the "Energy Resources" building. As support for the lease exclusions, the Complainant provided 12 pages of development and building permits that concerned the Energy Resources building in the prior year. Specifically, the Complainant focused on building permits affecting space that had been vacated by a long standing tenant where significant demolition and retrofitting took place. The Complainant argued and provided evidence that the building permit values exceeded $13,000,000 and significantly altered and upgraded the space. That space was no longer comparable to typical office space leased in B class buildings. Moreover, the size of the space re-leased after completion of the retrofit work, was of a sign cant size (over 100,000 sf divided into 2 leases), atypical of sizes leased in B class properties. A summary of the lease rate analysis indicated a range of lease

rates from $9.00 per sf to $37.00 per sf, with a weighted average lease rate of $15.87 per sf, an average lease rate of $16.58 per sf and a median lease rate of $16.00 per sf.

Respondent's Position:

[10] The Respondent provided a 778 page disclosure document that was entered into the hearing as "Exhibit R1". In addition, the Respondent requested that all evidence and argument provided on this issue from File #72691 be brought forward to this hearing. The Respondent, along with Exhibit R1 and Exhibit R1 from File #72691, provided the following evidence and argument with respect to this issue:

[11] A 2013 downtown office net rental rate chart. The chart indicated that all office space of B class properties within the DT2 zone are assessed a net rental rate of $19.00 per sf. This was contrasted to the 2012 downtown office net rental rate of $14.00 per sf assessed in the prior year.

[12] A 2013 chart analyzing lease rates of B class buildings in the DT2 economic zone. The chart was similar to the comparison made by the Complainant during its presentation but with two key differences that resulted in the inclusion of 3 additional leases. First, lease start dates ranged from July 1, 2011 to July 1, 2012. The additional day of July 1, 2012 included an additional 1,075 sf lease with a $22.00 lease rate. Second, the analysis included the two Energy Resources building leases that were excluded by the Complainant. As support for the lease inclusions, the Respondent argued that the expenditures incurred to significantly alter and upgrade office space was necessary to make the building's office space competitive with other B class buildings. A summary of the lease rate analysis indicated the following:

a) Including all leases; a weighted average lease rate of $17.47 per sf, an average lease rate of $16.83 per sf and a median lease rate of $16.00 per sf was achieved.

b) Including leases with lease start dates ranging from July 1, 2011 to December 31, 2011; a weighted average lease rate of $15.27 per sf, an average lease rate of $16.36 per sf and a median lease rate of $16.00 per sf was achieved.

c) Including leases with lease start dates ranging from January 1, 2012 to July 1, 2012; a weighted average lease rate of $20.12 per sf, an average lease rate of $17.41 per sf and a median lease rate of $16.18 per sf was achieved.

The Respondent concluded that there was a significant difference in the weighted average of lease rates comparing the first six months of the analysis ($15.27 per sf) and twelve months of the analysis ($17.47), to the last six months of the analysis ($20.12 per sf). The Respondent argued that the significant increase in the weighted average of the lease rates in the first six months of 2012 was supportive of using an assessed office net rental rate of $19.00 per sf since it is closer to the valuation date of July 1, 2012.

[13] A 2012 chart analyzing lease rates of B class buildings in the DT2 economic zone, with lease start dates ranging from July 1, 2010 to July 1, 2011. A summary of the lease rate analysis indicated the following:

a) Comparing all leases; a weighted average lease rate of $15.93 per sf, an average lease rate of $13.86 per sf and a median lease rate of $13.50 per sf was achieved.

b) Comparing leases with lease start dates ranging from January 1, 2011 to July 1, 2011; a weighted average lease rate of $14.13 per sf, an average lease rate of $14.01 per sf and a median lease rate of $14.00 per sf was achieved.

The Respondent argued that unlike the 2013 assessment there was no significant difference in the weighted average of lease rates comparing twelve months of the analysis ($15.93 per sf) to the last six months of the analysis ($14.13 per sf).

Complainant's Rebuttal:

[14] In rebuttal, the Complainant requested that all evidence and argument provided in rebuttal on this issue from File #72691 be brought forward to this hearing. The Complainant, along with Exhibit C2 from File #72691, provided the following evidence and argument with respect to this issue:

[15] A chart comparing the weighted average, average and median of the lease rate analyses provided by the Respondent as indicated above. The Complainant highlighted that the 2013 office lease rate weighted average was $17.47 per sf, while the 2012 weighted average was $15.93 per sf. A difference of $1.54 per sf. The 2013 assessed net rental rate is $19.00 per sf, while the 2012 assessment rate was $14.00 per sf. A difference of $5.00 per sf. The Complainant argued that the requested net rental rate of $16.00 is a $2.00 increase over the prior year's assessment rate and is justified when comparing the weighted averages of lease rates over the last two years.

CARB Findings:

[16] The CARB finds the following with respect to this issue:

[17] That the inclusion of a $22.00 lease rate with a lease start date of July 1, 2012 can be included in the analysis when analyzing lease rates for a July 1, 2012 valuation date. The CARB is of the opinion that lease rates of leases with start dates that begin on the same day as the valuation date may be good indicators of market lease rates as they require no time adjustment factors.

[18] That the lease rates of the two leases in the Energy Resources building should be included in the analysis. The CARB is in agreement with the Respondent that the large expenditures incurred retrofitting the re-leased spaces were necessary and likely long overdue after the long standing tenant vacated the premises. Although the leased areas of the two re-leased spaces are larger than the typical size found in the rental rate analyses (44,016 sf and 70,251 sf respectively), the CARB notes there was one other space in the analysis that was included by both parties that was 49,320 sf in size, leased for $9.00 per sf, with a lease start date of October 1, 2011. Therefore, the exclusion of those two leases is not justified. The CARB is aware however, that the inclusion of the two Energy Resources leases significantly impacts the weighted average analysis of the lease rates regardless of whether the analysis is performed on a six month or twelve month basis, the result of which may not be indicative of the market or typical net rental rate. Therefore, the decision as to what assessed rental rate should be applied to office space in the Income Approach assessment will be reviewed in tandem with the cap rate issue as outlined below.

ISSUE 2: The assessed cap rate applied in the Income Approach to value should be increased to 5.25%.

Complainant's Position:

[19] The Complainant requested that all evidence and argument provided on this issue from File #72691 be brought forward to this hearing. The Complainant, along with Exhibit C1 and Exhibit C1 from File #72691, provided the following evidence and argument with respect to this issue:

[20] Third party cap rate studies from Colliers International and CB Richard Ellis indicating that the cap rates for B quality downtown office buildings in the second quarter of 2012 range from 6.25% to 7.25%.

[21] A 2013 City of Calgary downtown office cap rate study comparing the sales of A, B and C class quality office buildings from April, 2011 to June, 2012. The Complainant highlighted that the median cap rate for A class quality buildings sold in 2012 was 5.63% but were assessed on the Income Approach using a cap rate of 6%. The median cap rate for B class quality buildings sold in 2012 was 5.02% but were assessed on the Income Approach using a cap rate of 5%. The Complainant argued that the roughly 0.50% upward adjustment to the cap rate of the A class buildings should be equitably applied to the B class buildings. In addition, the Complainant argued that the Respondent's higher cap rate for A class buildings is counter-intuitive to what would be expected in the market. Generally, cap rates diminish as the quality of the building goes up as a reflection of the risk of investment.

[22] A cap rate analysis involving five sales of downtown B class quality office buildings. Two of the sales occurred on August 23, 2011, two on June 13, 2012 and one on June 15, 2012. The buildings ranged in age from 1972 to 1982, in size from 110,423 sf to 200,099 sf and sold at a sales price ranging from $275.69 per sf to $407.44 per sf with a median of $345.45 per sf. The Complainant generated cap rates from Income Approach valuations of the five sales using three different approaches to market net rental rates as follows:

a) The first approach involved the application of the typical lease rates as calculated by the Respondent (see issue 1 above). The three sales that occurred in June, 2012 used a market net rental rate of $19.00 per sf, while the two sales that occurred in June, 2011 used a market rental rate of $14.00 per sf (for a DT3 economic zone sale) and $15.00 per sf respectively. The median cap rate generated under this approach was 4.83%. The Complainant rounded the cap rate upwards to 5.25% using the Class A building equity adjustment of 0.50% referenced above.

b) The second approach involved the application of the typical lease rates using a market net rental rate of $19.00 per sf, on all five sales. The median cap rate generated under this approach was 5.39%. The Complainant again rounded the cap rate upwards to 6.00% using the Class A building equity adjustment of 0.50%.

c) The third approach involved the application of the typical lease rates using a market net rental rate of $16.00 per sf, on all five sales as calculated by the Complainant (see issue 1 above). The median cap rate generated under this approach was 4.64%. The Complainant again rounded the cap rate upwards to 5.25% using the Class A building equity adjustment of 0.50%.

Respondent's Position:

[23] The Respondent requested that all evidence and argument provided on this issue from File #72691 be brought forward to this hearing. The Respondent, along with Exhibit R1 and Exhibit R1 from File #72691, provided the following evidence and argument with respect to this issue:

[24] A 2013 downtown market transactions chart comparing the sales, assessments and assessment to sales ratios (ASR) of A, B and C class equitable properties that sold from April 13, 2011 to June 21, 2012. The chart was subdivided into three charts analyzing the results for A, B and C class properties respectively. The eight A class property sales had a median sales price of $440 per sf with a median ASR of 0.97. Two C class property sales had a median sales price of $244 per sf with a median ASR of 1.03. The Respondent provided an April 13, 2011 sale of a B class property known as the "Telephone Building" in addition to the five provided by the Complainant in its analysis. The six B class properties had a median sales price of $360 per sf with a median ASR of 1.04. The median ASR for all properties (A, B and C) was 1.01.

[25] A time adjustment analysis that indicated that sales of properties that occurred prior to the valuation date of July 1, 2012 should be adjusted for time at a rate of 1.76% per month.

[26] A chart of downtown office assessments per sf analyzed by quality of the building. The chart indicated that the higher the class the higher the assessment per sf. The chart ranged from a median of $221 per sf for D class buildings to $585 per sf for AA New class buildings. The B class buildings had a median rate of $382 per sf.

[27] A chart of income parameters used in 2013 assessments of B class properties in the DT2 economic zone. The chart indicated that all nineteen properties including the subject were assessed with an office net rental rate of $19.00 per sf, a vacancy rate of 4.75%, operating costs of $17.00 per sf, a 2% non-recoverable rate and a 5.00% cap rate in their Income Approach valuations.

Complainant's Rebuttal:

[28] In rebuttal, the Complainant requested that all evidence and argument provided in rebuttal on this issue from File #72691 be brought forward to this hearing. The Complainant, along with Exhibit C2 from File #72691, provided the following evidence and argument with respect to this issue:

[29] An analysis of the 1.76% per month time adjustment factor proposed by the Respondent. The Complainant analysed the sales of A, B and C class office buildings in the downtown core that occurred from April, 2011 to July, 2012. The Complainant concluded that the 1.76% adjustment factor was predominantly caused by A class properties. The analysis showed that B class property sales did not require any adjustment for time.

[30] The same cap rate analysis referenced in Exhibit C1 with the additional Telephone Building sale of April 13, 2011 included in the analysis. The Telephone Building was constructed in 1929, was 62,650 sf in size and sold for a price of $462.89 per sf. The Complainant generated cap rates from Income Approach valuations of the now six B class sales using the same three approaches referenced above and determined similar outcomes supporting it's 5.25% requested cap rate.

[31] Five ASR analyses that compared the sales price of the six B class sales to their respective assessments generated by the Income Approach, varying only the net rental rates and cap rates for each as follows:

a) A net rental rate $22.00 per sf for the Telephone Building and $19.00 per sf for the other five sales, and a cap rate of 5.00%. This mirrored the approach of the Respondent as referenced above. This method produced a median ASR of 1.04.

b) A net rental rate $21.00 per sf for the Telephone Building and $16.00 per sf for the other five sales, and a cap rate of 5.25%. This approach would be consistent with the request of the Complainant. This method produced a median ASR of 0.89.

c) A net rental rate $22.00 per sf for the Telephone Building and $19.00 per sf for the other five sales, and a cap rate of 6.00%. This approach would support the request of the Complainant as in paragraph b). This method produced a median ASR of 0.87.

d) A net rental rate $22.00 per sf for the Telephone Building and $19.00 per sf for the other five sales, and a cap rate of 5.50%. This method produced a median ASR of 0.95.

e) A net rental rate $21.00 per sf for the Telephone Building and $16.00 per sf for the other five sales, and a cap rate of 5.00%. This method produced a median ASR of 0.94.

CARB Findings:

[32] The CARB finds the following with respect to this issue:

[33] That the 0.50% cap rate equity adjustment has no justification or support. The Complainant requested the adjustment to cap rate of the Income Approach assessments of B class office buildings in the downtown core, on the basis that a similar adjustment was made by the Respondent to the cap rate of the Income Approach assessments of A class office buildings in the downtown core. The CARB cannot accept this seemingly arbitrary adjustment unless it is supported with market evidence. Moreover, the CARB does not accept this adjustment on the basis of equity. Equity should be seen as assessing similar property in a similar manner. In this case, it would mean assessing all B class properties, using similar cap rates in the Income Approach. An arbitrary adjustment to the cap rate in the assessments of B class office buildings on the basis of an adjustment perceived in the cap rates of the assessments of a different class of office buildings has no basis in equity.

[34] That the cap rate varied in direct proportion to the net rental rate used in the Income Approach assessment of the sold property. The Complainant proved in all scenarios that lower net rental rates applied to office spaces of sold properties resulted in lower cap rates. It therefore makes little sense for the Complainant to apply a $16.00 office net rental rate in its cap rate study and derive a higher cap rate (5.25%) than was derived by the Respondent (5.00% cap rate) using higher net rental rates.

[35] It is the opinion of the CARB that the most reliable cap rate is generated from an income application that is typical and closest to the time of sale of the sold property being analyzed. On that basis, it seems that the Respondent more reliably calculated cap rates by using July 1, 2011 typical net rental rates for B class properties that sold in 2011 and July 1, 2012 typical net rental rates for B class properties that sold in 2012.

Board's Reasons for Decision:

[36] In this case, there is little to be gained in critiquing the various net rental rates and cap rates calculated by either party. What is paramount, is that whatever net rental rate or related cap rate that is used in the assessment of the subject, results in a reasonable approximation of its fair market value and is assessed equitably to other similar and competing properties. In determining fair market value, the CARB placed the greatest weight on the three B class properties that sold within three weeks of the July 1, 2012 valuation date. Those three properties are of similar vintage and size to the subject, with a sales price range of $345.45 per sf to $407.44 per sf and a median of $374.83 per sf. The subject is assessed at a rate of $401.75 per sf. On that basis, there is no compelling reason to alter the assessment.

[37] The ASR analyses as provided by the Complainant in his rebuttal document (Exhibit C2) supported the assessment parameters used by the Respondent in its Income Approach valuation. The Respondent's assessment parameters resulted in a median ASR of 1.00 among the three June, 2012 sales or a median of 1.04 among the six sales spanning form April, 2011 to June, 2012. No alternative scenario as provided by the Complainant produced superior ASR results.

DATED AT THE CITY OF CALGARY THIS 22nd **DAY OF** November **2013.**

[redacted]

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. C1 from File #72691	Complainant Disclosure
3. C2 from File #72691	Complainant Rebuttal
4. R1	Respondent Disclosure
5. R1 from File #72691	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.

(For MGB Office Only)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Office	High Rise	Income Approach	Net Market Rent & Cap Rate