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:

Dundeal Summer 2011 Collection (GP) Inc.
(as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

J. Dawson, PRESIDING OFFICER
J. Pratt, BOARD MEMBER
P. Loh, BOARD MEMBER

This is a complaint to the Composite Assessment Review Board [the Board] in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2014 Assessment Roll as follows:

ROLL NUMBER:	**067059402**
LOCATION ADDRESS:	**910 7 AV SW**
FILE NUMBER:	**75647**
ASSESSMENT:	**$33,110,000**

This complaint was heard on the 30th day of July, 2014 at the office of the Calgary Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *S. Meiklejohn* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *D. Zhao* *Assessor, The City of Calgary*
- *C. Fox* *Assessor, The City of Calgary*

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

[1] The Board derives its authority to hear this complaint under Section 460.1(2) of the Act. The Board composition is as required under Section 453(1)(c) of the Act. There are no objections from the Complainant or the Respondent with the Board as constituted, its jurisdiction or any party appearing before the Board.

[2] The Board has reviewed the complaint form and has confirmed there is a valid complaint under Section 460(5) of the Act. The Board has confirmed that the representatives before the Board have the authority to act on behalf of the Complainant and the Respondent for this complaint.

[3] The Complainant and Respondent both agreed to carry forward all evidence, testimony, answers and questions from decisions; CARB 75695P-2014, CARB 75642P-2014, CARB 74660P-2014, CARB 74678P-2014, CARB 74675P-2014, and CARB 75645P-2014 to this hearing.

[4] There are no additional preliminary, procedural, or jurisdictional issues.

Property Description:

[5] The subject is a fifteen storey building located on 7th Avenue between 8th Street and 9th Street SW in the downtown Non-Residential Zone [NRZ] of DT2. It has been stratified as a 'C' quality office building containing 146,900 square feet of assessable area and 139 assessable parking spaces. Built in 1981, it is referred to as 'Northland Building'.

[6] The Income Approach to Value is utilised to derive the assessment using the following parameters: 140,398 square feet of office space at $16 per square foot, 6,202 square feet of retail space at $16 per square foot, 300 square feet of storage space at $12 per square foot, and 139 parking spaces at $3,600 per space. Non-recoverable is set at 2.0%, office vacancy at 9.0%, retail vacancy at 8.0%, storage space vacancy at 2.0%, and parking vacancy at 0.0%. The operating costs are $14.50 for office, $20 for retail, $5 for storage and $0 for parking space. The overall capitalisation rate is set at 5.75%.

Issues:

[7] Vacancy is the first issue. The Complainant has concern with certain buildings being utilised in the vacancy study and is asking for an adjustment to 15.0% from 9.0%. Parking vacancy is requested to change to 2.0% from its current 0.0%.

[8] The overall capitalisation rate is the final issue. The Complainant has recalculated the Respondent's capitalisation study by adding another building and changing the methodology. The end result is a request of 6.25%.

Complainant's Requested Value: $25,270,000

Board's Decision:

[9] The Board confirmed the assessment at $33,110,000.

Legislative Authority, Requirements, and Considerations:

The Municipal Government Act
Revised Statutes of Alberta 2000 Chapter M-26

Interpretation

1(1) *In this Act,*

(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Position of the Parties

Issue: Vacancy

Complainant's Position:

[10] The Complainant argued that the Respondent included buildings within the vacancy study incorrectly resulting in a lower vacancy rate than actual.

[11] The Complainant restated vacancy reports for 'C', 'C-' and 'D' quality in one report. The results indicate a 9.03% overall vacancy using the Respondents methodology (CARB 74675P-2014 C1 p. 70).

[12] The Complainant argued that the Respondent has made errors by; the inclusion of owner / user buildings within its vacancy study. Removing the 'C' quality owner / user building – Police Headquarters, and adding in several buildings; 1134 8 AV SW, Century Park Place, Education Centre Building, Joe Philips Building, and Sundog Place; results in a 15.07% vacancy rate (CARB 74675P-2014 C1 p. 70).

[13] The Complainant argued in support of the 2.0% vacancy allowance for parking by indicating that nothing has changed in the market and 2.0% has always been given for the assessment.

Respondent's Position:

[14] The Respondent argued that the 'C' quality owner / user building – Police Headquarters is within the study and should remain.

[15] The Respondent provided the results of its '2014 C & C- DT2, 3, 9 Office Vacancy Rate' study, which shows a 9.03% vacancy and is assessed as 9.0% vacancy. The subject is contained within the study at a reported 0.0% vacancy (CARB 74675P-2014 R1 p. 51).

[16] The Respondent noted that the reported vacancy at 'Optima Place' was incorrect at 30.44% and should be corrected to 4.30% (CARB 74675P-2014 R1 pp. 81, and 54-68).

[17] The Respondent showed that the representative for the Complainant argued, on June 9, 2014 before a different Board, that 515 MacLeod Trail SE – Education Centre Building is vacant land. At this hearing the same representative is arguing it's a vacant building, with 100% vacancy, that should be included in the vacancy study (CARB 74675P-2014 R1 pp. 69-72).

[18] The Respondent included a vacancy report prepared by the representative for the Complainant showing an 11.25% vacancy request on June 23, 2014 for similar building (CARB 74675P-2014 R1 pp. 73-79).

[19] The Respondent created two additional vacancy studies to show scenarios if the Board accepted modifications; 1) exclude Education Centre Building and allow United Place, results in a 9.39% vacancy; and 2) exclude Education Centre Building, allow United Place and correct Optima Place and you get a 8.76% vacancy. Both examples support the assessed 9.0% (CARB 74675P-2014 R1 pp. 80-81).

Board's Reasons for Decision:

[20] The Board removed the 'C' quality owner / user building – Education Centre Building from the vacancy study prepared by the Respondent because there is no information available as to the actual space in use. If space were available, it is uncertain whether it would be offered for lease and therefore the property does not contribute to the available space within the marketplace.

[21] The Board added in the United Place based on a previous Board decision to stratify it as a 'C' versus the previously stratified 'B-'.

[22] The Board found the resultant office vacancy rate changes to 9.39%, which is higher than the value calculated by the Respondent. A change to the office vacancy rate can be supported; however, this minor change in the absence of any other change results is less than a 1% change in the total assessment; therefore, the original assessment falls into a range of probable assessments. The Board did not make a change in the overall assessment.

[23] The Board found no evidence from either party on the parking vacancy. Without evidence to support the Complainant's claim, the Board must accept the assessed 0.0% parking vacancy rate.

Issue: Capitalisation Rate

Complainant's Position:

[24] The Complainant argued that the Respondent's capitalisation rate study contained errors. The Complainant added the building at 237 8 AV SW to the Respondent's analysis

because the Complainant finds it to be a comparable building to the subject. Additionally, the Complainant changed the methodology employed, by determining the Net Operating Income [NOI] as of the date of sale by bracketing rental rates. The building added at 237 8 AV SW is for leasehold interest only; therefore, the Complainant added in a land value to find the fee simple estate. Supporting documents for the calculations and the validity of sales is included (CARB 74675P-2014 C1 pp. 99-171).

Respondent's Position:

[25] The Respondent argued that its capitalisation rate study is conducted properly finding a 5.61% rate and assessing 5.75%. Supporting documents are included. The Respondent argued that only fee simple estate sales, that have been researched as found to be valid are appropriate to calculate the capitalisation rate (CARB 74675P-2014 R1 pp. 113, 124-125, and 153-168).

Board's Reasons for Decision:

[26] The Board spent considerable time reviewing the evidence of each party. The Complainant's methodology of finding the market rental rates as of the date of sale is sound; however, falls short of finding the total NOI as of the date of sale.

[27] The Board found the sale at 237 8 AV SW is not fee simple estate. The Board finds the only valid sale, at 816 7 AV SW, is analysed correctly by the Respondent making the Respondent's analysis correct.

DATED AT THE CITY OF CALGARY THIS 28th DAY OF August 2014.

Jeffrey Dawson
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1 – 170 pages	Complainant Disclosure
2. R1 – 73 pages	Respondent Disclosure
3. CARB 75695P-2014 C1 – 199 pages	Complainant Disclosure
4. CARB 75695P-2014 R1 – 138 pages	Respondent Disclosure
5. CARB 75695P-2014 C2 – 214 pages	Complainant Rebuttal Disclosure
6. CARB 75642P-2014 C1 – 212 pages	Complainant Disclosure
7. CARB 75642P-2014 R1 – 137 pages	Respondent Disclosure
8. CARB 75642P-2014 C2 – 214 pages	Complainant Rebuttal Disclosure
9. CARB 74660P-2014 C1 – 181 pages	Complainant Disclosure
10. CARB 74660P-2014 R1 – 188 pages	Respondent Disclosure
11. CARB 74678P-2014 C1 – 204 pages	Complainant Disclosure
12. CARB 74678P-2014 R1 – 198 pages	Respondent Disclosure
13. CARB 75645P-2014 C1 – 172 pages	Complainant Disclosure
14. CARB 75645P-2014 R1 – 450 pages	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.

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	High Rise	Income Approach	Capitalisation Rate