

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, 2013 ECARB 00805**

**Assessment Roll Number:** 9986406  
**Municipal Address:** 10423 101 Street NW  
**Assessment Year:** 2013  
**Assessment Type:** Annual New

Between:

**CVG**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF**  
**Peter Irwin, Presiding Officer**  
**Brian Carbol, Board Member**  
**Brian Frost, Board Member**

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### **Procedural Matters**

[1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board Members indicated no bias in the matters before them.

[2] The Respondent stated that there was an error in the calculation of a portion of the assessment. As a result of the correction of the error respecting the excess land portion of the assessment, the Respondent stated they would be asking that the assessment be increased from \$313,319,500 to \$321,161,612.

### **Background**

[3] The subject property is a 619,173 square foot (sq ft), 28 storey high rise office tower with 850 underground parking stalls known as the EPCOR Tower. It is located at 10423 – 101 St NW in the Downtown Financial sector. It was built commencing 2009 and completed, save for some vacant unfinished space, in 2012. It is constructed on an approximately 250,000 sq ft site. It is the first, and currently the only office tower in Edmonton that is rated AAA. It was assessed using the income approach to value.

### **Issues**

[4] As to the 2013 assessment of the subject property:

(a) Is the lease rate correct?

(b) Is the capitalization rate (cap rate) correct?

(c) Is the excess land portion correct?

(d) Should there be an adjustment for functional obsolescence because of the number of stalls in the parkade?

### **Legislation**

[5] **The *Municipal Government Act*, RSA 2000, c M-26, reads:**

s 1(1)(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;

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board 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 Complainant**

[6] In support of a reduced assessment the Complainant presented arguments and documentary evidence to the Board.

[7] The documentary evidence submitted by the Complainant is as follows:

- Exhibit C-1: summarizes the Complainant’s testimonial evidence and argument with regard to the four issues and presents a request for a revised 2013 assessment of \$181,831,000.
- Exhibit C-2: is a copy of the lease agreement between EPCOR Utilities and the property owner.
- Exhibit C-3: is a copy of lease agreement No. 525003 between the Minister of Public Works and Government Services and the property owner.
- Exhibit C-4: is a copy of lease agreement No.527335 between the Minister of Public Works and Government Services and the property owner.
- Exhibit C-5: is a copy of the sublease between EPCOR Utilities and Intuit Canada.
- Exhibit C-6: includes copies of the City assessment *pro forma* for five ‘AA’ class buildings.
- Exhibit C-7: is the rebuttal evidence presented by the Complainant in response to the Respondent’s evidence and argument.

[8] The Complainant stated the subject property contains 607,389 sq ft of net leasable office space, 11,784 sq ft of CRU space and 850 underground parking stalls. Of the 607,389 sq ft of office space, EPCOR leases 289,681 sq ft and the Government of Canada leases a total of 124,151 sq ft. Save for a sublease by EPCOR of 49,804 sq ft to Intuit, no further office space has been leased since the Government lease was signed in May 2009. While the current vacancy is approximately 40%, the Complainant stated it has no issue with the City's 20% vacancy rate provided for in its 2013 assessment calculations.

[9] The Complainant advised that it is worthy of note that EPCOR had within its original lease the right to an additional one floor of space prior to occupancy at the contract lease rate, which it exercised.

[10] The Complainant further added it had no issue with regard to the lease rate used for the CRU space on the lower floors of the building.

[11] The Complainant acknowledged the City's rating of this property as a AAA quality office building, the first and currently the only AAA building in Edmonton. The Complainant agreed the AAA rating was a function of its being the only new major office building in the City financial district. The subject's LEED designation is also a factor contributing to its AAA rating. However, the Complainant raised the issue of the subject's location across 104 Avenue in the northernmost part of the financial district, and argued that its location was not optimal. The Complainant had no issue with the AAA rating itself.

#### **As to Issue 1, Lease Rate:**

[12] In support of a lower lease rate for the office space portion of the assessment, the Complainant argued that properties in the AA class are currently assessed using a typical lease rate of \$21.00 per sq ft (C-1, p. 10 and C-6, pp. 2-6). By contrast, the subject is assessed using a typical lease rate of \$36.50/square foot. This is a 74% premium over the AA lease rate. The Complainant considers this to be excessive.

[13] The Complainant noted the EPCOR lease for the subject property was signed at \$39.00/square foot triple net (NNN) in 2007, and the Government of Canada leases at \$58.00/square foot gross in 2009 (\$39.00 after a \$19.00 per sq ft deduction for common area costs; C-2, C-3 and C-4). The Complainant added that \$19 per sq ft for common area costs was consistent with City calculations.

[14] In 2009 the City utilized a typical lease rate of \$30 per sq ft for AA buildings (C-1, p.11). This reflected a premium of 30% for the leased AAA space over typical AA lease rates. The Complainant argued that it would be appropriate for the City in its 2013 assessment to apply a 30% premium to the AAA EPCOR leases resulting in a typical lease rate of \$27.30 per sq ft. To further support this rate, the Complainant referred to a sublease between EPCOR and Intuit (C-5) at \$26.00 per sq ft.

[15] In rebuttal, and in support of using the subject property's lease rate as the basis for the requested assessment, the Complainant cited an MGB decision indicating that leases in the subject property are the best evidence for assessment (C-7, p.8).

[16] The Complainant requested that a revised lease rate of \$27.00/square foot be used in the 2013 assessment.

### **As to Issue 2, Capitalization Rate:**

[17] In support of a higher capitalization rate for the subject property the Complainant presented seven sales of office buildings based on data from The Network. Two of the buildings are downtown, two in Oliver, two in Westmount and one in Place La Rue. These buildings sold between October 2011 and August 2012 and exhibited capitalization rates ranging from 6.01% to 7.77%. Based on an analysis of these sales in relation to the subject property, considering the age of the subject and factors affecting its income producing potential, the Complainant suggested that a capitalization rate of 6.00% as opposed to the 5.50% used by the City, would be appropriate.

[18] In rebuttal, the Complainant provided sales documentation from The Network for the 8 comparables presented by the Respondent. In a chart, the Complainant compared the differences in net income provided by The Network documents and those provided by the City (C-7, p. 18). The Complainant noted that the City generally used lower incomes than The Network and that the City's methodology doesn't recognize what happened in the marketplace. The Complainant contended that where the City income information is more accurate and closer to The Network information, capitalization rates are closer between the two data sets and tend to reflect a higher capitalization rate.

### **As to Issue 3, Excess Land:**

[19] The Complainant noted that the City added a lump sum adjustment to the original 2013 assessment in the amount of \$12,453,000 for "excess land".

[20] The Complainant presented arguments and evidence that the City's adjustment to the assessment for excess land was incorrect. Based on the Vehicular Parking Requirement, the Complainant noted that 482 stalls would be required, resulting in an excess land area of 50,643 square feet (C-1, p.27). The Complainant argued, however, that the owner of the subject property built 850 underground parking stalls on the site and if this number of stalls is used in the City calculation, there would be no excess land area; therefore no adjustment should be applied for excess land.

[21] In summary, the Complainant argued that there were errors in the City's calculation of excess land. Initially the wrong building size was used and the City is now incorrectly using the building footprint size to determine excess land. The Complainant contends that this is not part of the land use bylaw (C-7, pp.27-34).

[22] The Complainant reiterated that the 850 stalls provided would suggest that there is no excess land and contrary to the Respondent's position that this portion of the assessment be increased, excess land should be at most \$12,000,000 or at best, reduced to zero.

[23] In rebuttal, the Complainant stated that when calculating excess land it would be more correct to use floor area ratio, as defined in the Land Use Bylaw, than building footprint, as utilized by the City (C-7, p.21).

### **As to Issue 4, Functional Obsolescence (also referred to as Superadequacy):**

[24] The Complainant stated that the Parking Bylaw requires between 241 (minimum) and 482 (maximum) parking stalls for the subject property. With 850 stalls, the subject has at least 368 stalls more than required. This, in the Complainant's view, is a "superadequacy".

[25] The Complainant cited definitions of functional obsolescence and superadequacy from the Introduction to Real Estate Appraising, published by the Appraisal Institute of Canada (C-7, pp. 35 & 36):

- **Incurable functional obsolescence:** this loss from cost new arises when the cost of effecting a cure is greater than the anticipated increase in utility and, thus, the deficiencies or superadequacies are not economically curable.
- **Superadequacy:** items that add unnecessarily to reproduction cost new such as excessive footings, too many elevators, ceiling lights, etc.

[26] The Complainant presented arguments to show a superadequacy of 368 parking stalls for the subject property based on the bylaw requiring 482 stalls. The Complainant indicated that the net income generated by parking is \$2,239,104, which when capitalized at 6% would be valued at \$37,318,400, or when capitalized at 5.5% would be valued at \$40,710,982. The Complainant argued that the additional 368 stalls represented 43% of the value of the parkade or a value of \$16,158,867 to \$17,627,855. In questioning by the Respondent, the Complainant stated that the parking facility would be underutilized.

[27] The Complainant concluded that a negative adjustment of \$17,000,000 is reasonable to reflect this superadequacy.

[28] In summary, based on:

- (a) a lease rate of \$27.00 per sq ft;
- (b) a capitalization rate of 6%;
- (c) the removal of the \$12,453,000 adjustment for excess land; and
- (d) a reduction for the superadequacy of parking of \$17,000,000,
- (e) A lump sum adjustment of \$18,791,388, ( a finish adjustment to account for unfinished space in the building) was not an issue,

the Complainant requests that the 2013 assessment of the subject property be reduced to \$181,831,000.

### **Position of the Respondent**

[29] The Respondent stated that the 2013 assessment contained an error in calculation. After correction of the error, the Respondent stated the 2013 assessment for the subject property should increase from \$313,319,500 to \$321,131,612. The Respondent asked that the Board to approve an increase of the assessment to \$321,131,612.

[30] In support, a 151 page brief (R-1) was submitted and entered into evidence.

[31] In its preamble, the Respondent brought the Board's attention to:

- Photographs of the subject, in particular one which showed public parking meters on the first parkade level (R-1 p. 15);

- A map and aerial photo of the subject property, in particular showing excess land to the north and east of the subject building (R-1, p. 19);
- The original and corrected assessment summaries showing where the error occurred and how it was corrected (R-1, pp. 20-23);
- Itemized response to the Complainant's issues (R-1, pp. 26-34);
- Mass Appraisal brief describing the basics of mass appraisal (R-1, pp. 123-126) ; and
- Definitions for typical market rent per square foot, capitalization rate and excess land, (R-1, pp. 127, 130 and 131).

[32] The Respondent noted that the EPCOR Tower, as the City's only AAA office, is the most advanced office space in Edmonton. It is a LEED (Leadership in Energy and Environmental Design) certified structure and includes several features:

- Triple glazed windows
- Double source plumbing (rainwater in addition to municipal water)
- Advanced heating systems (allows area heating instead of one HVAC temperature control for an entire floor)
- Parking structure with higher ceilings
- An LRT hub completed underground (to be connected to LRT in NAIT direction)

[33] The EPCOR Tower is regarded as an energy efficient development, with an operating expense of \$15.25/sf, compared to a typical AA class office operating expense of \$19.00/sf.

#### **As to Issue 1, Lease Rate:**

[34] The Respondent stated the subject property is the only AAA class office building in Edmonton, and in fact the only new office tower built in Edmonton in many years. As such, there were no other properties from which to derive typical market rents. Accordingly, the Respondent stated the actual leases in the subject property were established as being typical rents.

[35] The Respondent stated EPCOR took occupancy in January 2012 at a lease rate of \$39.00 per sq ft (on a NNN basis) for 192,761 sq ft of space. Further, the Government of Canada took occupancy in October 2011 of a total of 127,887 sq ft of space on a gross basis at \$58.00 per sq ft, or effectively \$42.75 per sq ft, assuming common area costs of \$15.75 per sq ft as reflected in the EPCOR lease.

[36] The Respondent further added that, as evidenced by the promotional brochure (R-1, pp 58-62), asking rates for the remaining space within the subject property are in the \$35-\$40.00 per sq ft range.

[37] The Respondent stated that in discussion with leasing agents it was determined that a typical tenant improvement allowance for this property would be in the range of \$40-\$50.00 per sq ft, the equivalent of \$2.50 per sq ft per year over a 20 year lease.

[38] The Respondent stated that it derived its typical rental rates for AAA office buildings by using the rate contracted for in the EPCOR lease. This rate is \$36.50 per sq ft (NNN), which includes a \$2.50 per sq ft allowance for tenant improvements. The Government of Canada lease also supports \$36.50 per sq ft as a typical rent, after deductions for common area costs are made (R-1, pp. 26-27).

[39] The Respondent further added that CRU rates were adjusted from the typical rental rate of \$36.50 per sq ft on the basis of economies of scale. After these adjustments were made, CRUs of less than 1000 ft<sup>2</sup> were assessed at the rate of \$38.25 per sq ft; CRUs of 1,001 to 3000 ft<sup>2</sup> were assessed at the rate of \$36.50 per sq ft; and CRUs of 3,001 to 5,000 ft<sup>2</sup> were assessed at \$32.75 per sq ft.

[40] The Respondent reiterated the City establishes lease rates based on commencement date, (generally occupancy date) and it does not collect data regarding negotiation dates.

[41] The Respondent addressed the Complainant's presentation of the sublease of a portion of the EPCOR space stating that it was unlikely that it was an agreement made with open market exposure. Further, the sublease was *post facto* the negotiation and commencement date, (November 2012 and November 2013 respectively) and was merely an effort on the part of EPCOR "to mitigate the cost of not using space that they are paying for" (R-1, pg 28).

[42] The Respondent asked that the Board accept a typical lease rate for the subject property of \$36.50 per sq ft.

#### **As to Issue 2, Capitalization Rate:**

[43] The Respondent provided a copy of the City of Edmonton Downtown 2013 Valuation Rates, (R-1, p. 55) which is the basis for all office assessments in the Downtown area. Cap rates were shown to decrease incrementally as office class increased. At the top of the list were AA and AAA quality office buildings at 5.5%.

[44] Those rates were supported by a chart which provided data on five class A building sales and three class AA building sales (R-1, p. 40). The cap rates on the class AA sales ranged from 4.13 – 5.63% and exhibited a median of 5.37%, while the class A sales ranged from 5.62 – 7.43% and exhibited a median of 6.02%. The Respondent reiterated that there are no transactions on class AAA buildings from which to draw data.

[45] The Respondent stated the City bases its cap rate derivation on analysis of every sale, and uses typical rent rather than reported income in an effort to achieve consistency in its data. The Respondent further stated that there are too many variables and inconsistencies in reported income and vacancy to formulate reliable cap rate data on actual income and vacancy. The Respondent cited *Astoria Manor v. City of Edmonton*, MGB No. DL 026/09 in support of this methodology (R-2, pp. 45 and 46).

[46] The Respondent critiqued the Complainant's comparable sales and stated that after elimination of sales that were located out of the downtown core, had inferior building classifications and/or were *post facto*, only sales 3 and 4 were appropriate. Those sales were two of the Respondent's three comparable class AA building sales. The Respondent added that the Complainant's data was based on Network documents which displayed inconsistencies (e.g. assumed vs. actual vacancy) that had not been stabilized in the manner used by the City. As such, the Respondent contended the majority of the Complainant's sale comparables were unreliable.

[47] The Respondent asked that the Board accept the City's assessed cap rate of 5.50% for AAA office buildings.

**As to Issue 3, Excess Land:**

[48] The Respondent stated that excess land for an improved site is the land not needed to serve or support the existing improvement. It may allow for future expansion of the existing or anticipated improvement (R-1, p.131).

[49] The Respondent asked that the Board increase the excess land portion of the assessment based on the value of land similarly zoned to the subject (\$91.06 per sq ft) as determined by the City of Edmonton Land Branch. The original assessment double counted parking in its excess land calculation while the requested revised figure corrected that error.

[50] The Respondent stated that the original calculation of excess land was detailed on a spreadsheet (R-1, p. 21). To determine the amount of excess land on the subject parcel, the City started with the lot size, then subtracted the building footprint and parking requirements as provided for in the Zoning Bylaw (R-1, pp. 63 – 67):

<b>Actual Lot Size:</b>	249,539 sq ft.
<b>Less Building Footprint:</b>	-26,648 sq ft.
<b>Less Parking Requirements:</b>	-86,124 sq ft.
<b>Excess Land:</b>	136,767 sq ft.

[51] The Respondent stated that the City calculated the value of the excess land by applying a land rate of \$91.06 per sq ft to the excess land area:

- $136,767 \text{ sf} \times \$91.06/\text{sf} = \$12,453,278$

[52] The Respondent added that an error had been made in the original excess land calculation because it had made allowance for on-site (surface) parking, whereas more than sufficient parking was available within the parkade. A new calculation was provided (R-1 p. 23) which addresses the total of the land beyond the building footprint which would be described as excess:

<b>Actual Lot Size:</b>	23,183 m <sup>2</sup>
<b>Less Building Footprint:</b>	-2,476 m <sup>2</sup>
<b>Less Parking Requirements:</b>	0
<b>Excess Land:</b>	20,707 m <sup>2</sup>



[53] The Respondent provided detail on parking requirements as detailed in the City bylaws in support of its recalculation of excess land. Based on the bylaw, the minimum requirement is 164.55 stalls, which the 850 stalls in the building's parkade more than satisfy.

[54] The Respondent stated that the City calculated the revised value of the excess land by applying a land rate of \$980.11 per sq metre to the excess land area:

- $20,707\text{m}^2 \times \$980.11 = \$20,295,000$ .

[55] The Respondent asked that the Board increase the excess land portion of the assessment from \$12,453,000 to \$20,295,000.

[56] Upon questioning with respect to setbacks, the Respondent was uncertain as to an area calculation for setbacks, or if setbacks apply in the subject's footprint calculation.

**As to Issue 4, Functional Obsolescence (also referred to as Superadequacy):**

[57] In the Respondent's disclosure, the following definitions were provided (R-1, p. 76):

- **Functional Obsolescence:** loss in value of a property from changes in tastes, preferences, technical innovations, or market standards.
- **Superadequacy:** a feature of a property exceeding in quality or amount the corresponding feature in a typical property of the same use. Superinsulation is one example. Superadequacies fall into the larger category of functional obsolescence.

[58] The Respondent pointed out that of the subject building's 850 stalls, the EPCOR lease demanded no less than 300 stalls be provided initially and that an additional 100 be available should the need arise. Further, notwithstanding clauses in the Government of Canada leases were incomplete as to the designated number of available stalls, there is little doubt there would be a parking requirement that would have to be considered (C-3 and C-4, p. 3). As well, Imperial Parking, (as evidenced in photographs in R-1, p. 15), is contracted to manage public parking.

[59] The Respondent stated development of a second tower, as contemplated in promotional data for the overall development, (R-1, p. 58-62) as well as future LRT access, would suggest that demand will not only absorb any excess stalls, but the income from those stalls will rationalize their provision.

[60] In referring to the Complainant's Evidence, the Respondent stated there must be loss of value for there to be functional obsolescence, and there is no loss of value if income can be generated to offset the initial cost (C-7, p. 35). By the Respondent's calculations, there is about \$3.3 million in annual income potential. Capitalized at 5.5%, this would result in \$55,000,000 of value in the parkade, and suggests there is both income and value potential inherent in the excess parking stalls.

[61] The Respondent asked that the Board reject the Complainant's request for a superadequacy adjustment.

[62] In final summation, the Respondent requested the Board to increase the assessment from \$313,319,500 to \$321,131,612.

## **Decision**

[63] The Board's decision is to reduce the 2013 assessment to \$233,665,500.

### **Reasons for the Decision**

#### **As to Issue 1, Lease Rate:**

[64] The Board was satisfied by the evidence presented that the EPCOR lease was signed on December 6, 2007 at a contracted lease rate of \$39.00 per sq ft on a NNN basis for the initial 10 years of the lease. The Board was similarly satisfied that the Government of Canada leases were signed on May 4, 2009 at a contracted rate of \$624.33 per sq metre, (\$58 per sq ft), on a gross basis for a 10 year term. The Board was as well satisfied that the lease was signed in anticipation of a building being constructed in accordance with agreed to conditions. The Board finds that the EPCOR lease contained a commencement (occupancy) date of January 1, 2012 and the Government leases contained a commencement (occupancy) date of September 30, 2011.

[65] The Board took note that the Government rate was somewhere between \$39 and \$43.50 per sq ft on a NNN basis after deduction of common area costs of \$15.50 per sq ft, as suggested by the Respondent, and \$19 per sq ft as suggested by the Complainant.

[66] The Board considered the Complainant's position that the commencement date establishes the effective date of a lease (and the applicable rate). This would usually apply where there was a brief passage of time between the date the lease is signed and the date of commencement. The Board concluded that in this case, where the EPCOR lease terms were negotiated and finalized 5 years prior to the commencement date, and the Government lease terms were negotiated 2 ½ years prior to the commencement date, it would be unreasonable to assume that these rates should not be time-adjusted to arrive at typical lease rates to be used for the purposes of assessment. This would reflect any movement within the overall market from the date the leases were signed.

[67] The Board acknowledges that there was an amendment to the EPCOR lease that was signed in 2011. The Board heard the opinions of the parties that the amendment may have related to final space definition, exercise by EPCOR of the right to additional space as permitted under the lease, or perhaps some other reason. The Board agreed with the Respondent's position that because the lease amendment was not in evidence, its true intent is not known. The Board was, however, satisfied by the Complainant's position that the current rent roll provides sufficient confirmation that the lease rate itself was not affected by the amendment.

[68] The Board considered the Complainant's evidence regarding the sublease of two floors of space by EPCOR to Intuit at \$26 per sq ft. The Board accepts the Respondent's position that the sublease is *post facto*; however, the Board agrees with the Complainant that it shows a trend in the direction lease rates are going, notwithstanding the Respondent's position that subleases are not representative of the market.

[69] The Board was most swayed by the Complainant's evidence regarding the movement of typical lease rates as used by the City in its assessments. The EPCOR lease was signed in 2007 and the Government leases were signed in 2009. In 2009 the City recorded typical AA rents at \$30 per sq ft, 30% less than the amount contracted for by EPCOR. It is only logical in the absence of any other form of proof that a similar differential would exist in 2013. The Complainant provided evidence that the City is using a lease rate of \$21 per sq ft for the 2013

assessments of AA office buildings. While the Complainant requested that the Board accept \$27 per sq ft as the typical lease rate for the 2013 assessment, the Board accepts that a 30% difference (or \$27.30 per sq ft) is a reasonable typical lease rate for AAA space in the 2013 assessment.

[70] The Board was further swayed in noting that, other than the sublease of EPCOR space, no more space has been leased since the Government lease in 2009. Currently, over 193,000 sq ft of vacant office space remains in the building. The Board was persuaded by these facts, notwithstanding the Respondent's evidence that the current advertised rate in the building is \$38 – \$40 per sq ft. The failure to lease any additional space at the advertised rates suggests to the Board that the Edmonton market does not currently support lease rates at these levels.

#### **As to Issue 2, Capitalization Rate:**

[71] The Board considered the Complainant's evidence and in doing so was mindful of the Respondent's position that only two of the Complainant's comparable sales were indeed comparable. That the City also used those two comparables led the Board to review the methodology as it relates to consistency of data, and the Board determined that the City's use of typical rents to sales price provided the most consistent finding as to cap rate.

[72] The Complainant failed to convince the Board that the capitalization rate used by the City was incorrect. The Board therefore finds that the 5.5% cap rate as determined by the City should not be changed.

#### **As to Issue 3, Excess Land:**

[73] The Board considered the Complainant's position that an excess land calculation should be more correctly determined on the basis of floor area ratio. The Board also noted the Complainant's argument that the number of excess parking stalls absorbed any excess land and that there should be no excess land calculation.

[74] The Board considered the Respondent's position that there was an error in calculation of excess land and that there should be an increase in the portion of the assessment attributable to the excess land.

[75] Notwithstanding argument by both parties that the amount and location of parking affected the excess land calculation, the Board considered the Respondent's argument that excess land is simply the land area less the building footprint. The Board considered the Respondent's confirmation that building setbacks may influence the excess land. The Board noted that neither party was able to confirm if there were setbacks nor was the Board satisfied that either party really had a firm knowledge of the actual amount of excess land. Accordingly, it is the Board's decision that the original excess land calculation remain unchanged as neither party was able to convince the Board that it was incorrect.

#### **As to Issue 4, Functional Obsolescence:**

[76] The Complainant considered the number of parking stalls to be a superadequacy, a form of functional obsolescence as defined by the Appraisal Institute of Canada. The Board considered the Complainant's position and calculations based on the excess stalls being a detriment to the property as it was overbuilt by 43.3%.

[77] The Board considered the Respondent's argument that the EPCOR lease required a parking allotment that in itself was a minimum requirement and also included a further 100 stall option . Taken together, this begins to approach the maximum parking requirements. The Board agreed that after allocating stalls for the Government tenants, public parking and future needs, there appeared to be no excess parking.

[78] The Board further considered the Respondent's calculations that showed there was value added in the additional parking and agreed that there was no functional obsolescence present.

[79] The Board was satisfied that the Complainant had no other issue with the 2013 assessment calculations. To that end, the Board turned to the original assessment calculations (R-1, p. 20) and recalculated the 2013 assessment as set out in Schedule "A".

### **Dissenting Opinion**

[80] There was no dissenting opinion.

Heard commencing July 3, 2013.

Dated this 24<sup>th</sup> day of July, 2013, at the City of Edmonton, Alberta.



Peter Irwin, Presiding Officer

### **Appearances:**

Tom Janzen  
for the Complainant

James Cumming  
Tanya Smith  
Vasily Kim  
for the Respondent

*This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.*

## Schedule "A"

<b>Tenant Space</b>	<b>Area (ft<sup>2</sup>)</b>	<b>Market Rent/ft<sup>2</sup></b>	<b>Total</b>
Office Space	607,389	\$27.30	\$16,581,720
CRU <1,000 ft <sup>2</sup>	555	\$38.25	\$21,229
CRU 1,001 to 3,000 ft <sup>2</sup>	4,647	\$36.50	\$169,616
CRU 3,001 to 5,000 ft <sup>2</sup>	6,582	\$32.75	\$215,561
Underground Parking	850 Stalls	\$280/stall/month	\$2,856,000

<b>Potential Gross Income</b>			\$19,844,126
<b>Vacancy Loss @ 20%</b>			-\$3,968,825
<b>Effective Gross Income</b>			\$15,875,301
<b>Less Expenses, Structural @ 2%,</b>			-\$317,506
<b>Vacancy Shortfall Office and Retail</b>			-\$2,357,571
<b>Net Operating Income</b>			\$13,200,224
<b>Capitalized at 5.5%</b>			\$240,004,073
<b>Other Value</b>			\$12,453,000
<b>Add Additional Buildings</b>			-\$18,791,388
<b>2013 Final Market Estimate</b>			\$233,665,685
<b>Rounded 2013 Value</b>			<b>\$233,665,500</b>