

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER

J. Rankin, MEMBER

B. Kodak, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of Property/Business assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 031500507 / 031500606 / 031500705 / 031500804 / 031500903 / 031501109

LOCATION ADDRESS: Units # 6 through 10 and Unit # 12 3424 – 26 Street NE

HEARING NUMBER: 59096 / 59097 / 59099 / 59100 / 59118 / 59106

ASSESSMENT: \$581,000. / \$617,000. / \$689,000. / \$687,500. / \$686,500. / \$603,500. Respectively

This complaint was heard on 21 day of June, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- D. Chabot

Appeared on behalf of the Respondent:

- B. Partridge

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

Not Applicable

Property Description:

The properties under complaint consist of six (6) individual industrial condominium bays, ranging in size from approximately 3,368 Sq. Ft. to approximately 3,640 Sq. Ft. and all are located within the same building at 3424 – 26 Street NE in the City of Calgary and which was originally constructed in 1979.

Issues:

1. The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.
2. The use, quality and physical condition attributed by the municipality to the subject property is incorrect, inequitable and does not satisfy the requirement of Section 298 (2) of the Municipal Government Act.
3. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
4. The information requested from the municipality pursuant to Section 299 or 300 of the Municipal Government Act was not provided.
5. The aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties and should be \$150.
6. The aggregate assessment per square foot applied does not reflect market value for assessment purposes when using the direct sales comparison approach and should be \$140.
7. The characteristics & physical condition of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, mgmt., non recoverable and capitalization rates indicating an assessed market value of \$118/Sq. Ft.
8. The valuation method used for the subject property is fundamentally flawed in both derivation and application.

Complainant's Requested Value: The Complainant is requesting a rate of \$154/Sq. Ft. which equates to the following specific values for Units 6 – 10 respectively: \$519,596. / \$518,672. / \$560,560. / \$559,328. / \$558,250. AND Unit # 12 \$559,326.

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

1. The Board does not agree with this contention of the Complainant as no evidence was provide by the complainant to indicate in what manner the assessment was prepared in contravention of Section 293 of the M.G.A.
2. The Board was not provided with any evidence or argument from the Complainant to support this issue.
3. The Board agrees with this assertion, assuming there is evidence to warrant a reduction.
4. The Complainant provided no evidence or argument to support this contention so the Board did not give this matter consideration.
5. Both parties introduced equity comparables which, in the case of the Complainant supported their requested assessment and, in the case of the Assessor, which supported the existing assessment. Both parties provided the Board with argument as to why their equity comparables were superior; however, in the final analysis the Board was not convinced by the equity argument of the Complainant to reduce the assessments of the subject properties.

6. The Complainant introduced well documented sales evidence, complete with photographs of the properties, to support their request for a reduced assessment. The Assessor noted that two of the sales were post-facto with one having been recorded July 31st of 2009 and the other having been recorded August 31, 2009. The Board accepts these sales as both were recorded in the assessment year and both were recorded close to the July 1st valuation date. The Assessor introduced five sales which were not supported with documentation nor with photographs. The Board noticed that one of the Assessor's sales related to a unit from within the subject building and that sale, which was recorded in December of 2008, indicated a time adjusted selling price of \$146/Sq. Ft. and which supported the Complainant's requested assessment. The Board found the Assessor's sales evidence difficult to compare to the subject properties as no photographs were made available; thus, the degree of comparability was questionable. Additionally, no supporting sales documentation was provided by the Assessor. The Board was convinced by the superior, well documented sales evidence of the Complainant that a reduction on the assessed values of the subject properties is warranted.
7. The assessment of the subject property was prepared using the Direct Comparison Approach to Value and not the Income Approach to Value; however, the Board is concerned with the resultant assessment, not the manner in which the assessment was derived. While the Complainant did provide an abbreviated income approach that suggested a value in the range of \$118/Sq. Ft.; however, this value was significantly below the Complainant's requested assessed values and it was not supported by either the Complainant's equity evidence nor by their sales evidence. Accordingly the Board was not swayed by the Complainant's Income Approach argument to alter the assessed values of the subject properties.
8. The valuation method applied in this instance was the Direct Comparison Approach, which is sometimes referred to as the Direct Sales Approach or similar names. The use of this approach to value is contextually allowed in the legislation. The Complainant did not advance any persuasive argument or evidence to support the contention that an error had been made in the application of the Direct Comparison Approach in preparing this assessment.

Board's Decision:

The assessments are reduced as follows:

<u>Roll #</u>	<u>Revised Assessment</u>
031500507	\$ 519,500.
031500606	\$ 518,600.
031500705	\$ 560,500.
031500804	\$ 559,300.
031500903	\$ 558,200.
031501109	\$ 559,300.

DATED AT THE CITY OF CALGARY THIS 5th DAY OF August 2010.


C. J. GRIFFIN
Presiding Officer

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.*