

**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(4).

**between:**

***Altus Group, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***W. Kipp, Presiding Officer***

***Y. Nesry, Board Member***

***J. Massey, 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 2010 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>116026196</b>
<b>LOCATION ADDRESS:</b>	<b>4920 – 72 Avenue SE, Calgary AB</b>
<b>HEARING NUMBER:</b>	<b>59996</b>
<b>ASSESSMENT:</b>	<b>\$19,590,000</b>

This complaint was heard from the 22<sup>nd</sup> to 24<sup>th</sup> of June, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- Josh Weber

Appeared on behalf of the Respondent:

- Ian Baigent, Irene Pau

**Background and Preliminary Matters:**

The hearing regarding this file 59996 was the first of several hearings on similar, very large industrial properties. In the interests of efficiency, the Complainant dealt with general and generic data that would, for the most part, be applicable to all of the large properties. The Complainant's evidence brief, intended to cover two properties (File 59996 and 59997) contained evidence to support equity and market value arguments based on applications of the income approach. The only issue regarding the assessment of the property on file 59996 was equity. For the property on file 59997, the issues were equity and market value.

As a preliminary matter, both parties had rebuttal documents that they wished to file for this hearing (as well as for file 59997). These documents had been properly filed for other files that were on the same agenda as 59996 and 59997, however, an oversight left them out of the filings for these two hearings. Each party agreed to the admission of the other party's documents. Pursuant to the Matters Relating to Assessment Complaints Regulation (AR 310/2009), the Board accepted the documents and marked them as exhibits for all five hearings (Files 59996, 59997, 56342, 58947, 59999).

The documents were marked:

- Exhibit 1: Complainant: "Rebuttal Evidence of the Complainant"
- Exhibit 2: Respondent: "Appellant Document From ARB 2010 Hearing #59999"
- Exhibit 3: Respondent: Document of ARFI's with The City of Calgary letter to Hoopp Realty Ltd. as its cover page
- Exhibit 4: Respondent: "City of Calgary Industrial Multiple Building Assessment"

Later during this hearing (the morning of June 24, 2010), the Respondent chose to highlight portions of "Calgary Assessment Review Board Decision with Reasons #ARB 0522/2010-P which had been issued on June 23, 2010. By addressing certain portions of that decision, the Respondent stated that he would be able to bypass elaboration on Exhibits 2, 3 and 4. The Complainant did not object. The CARB accepted the decision and marked it as an exhibit.

- Exhibit 5: Respondent: "Calgary ARB Decision ARB 0522/2010-P"

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

At the point in the hearings where the Complainant first introduced Exhibit 1, The Respondent objected to full admission of the exhibit on the grounds that it contained new evidence that could not be considered as rebuttal evidence.

The Complainant explained the contents of the exhibit:

- A list of hearing numbers for which the rebuttal was submitted (including files 59996 and 59997)
- An analysis of data, including income and capitalization rate analyses on the properties the Respondent had used in its direct sales comparison approach
- RealNet Canada Inc. transaction summaries for the properties the Respondent had used in its direct sales comparison approach
- Rent rolls for some of the properties used by the Respondent in the direct sales comparison approach
- A press release pertaining to one of the properties used by the Respondent in the direct sales comparison approach
- Business assessment notices for some of the properties used by the Respondent in the direct sales comparison approach with that property's Net Annual Rental Value (NARV) marked.
- Narrative and textbook quote pertaining to resales and time adjustments

After hearing the positions and arguments of the parties, it was the decision of the CARB that the Complainant's rebuttal document be admitted into evidence in its entirety. All of the contents of the brief related to sales that had been used in the assessment valuation by the Respondent and the details in the brief were intended to show comparability or lack of comparability between the subject property and each of the Respondent's comparables. Once the parties had stated their positions, the Respondent requested a recess in order for him to arrange for another City of Calgary Assessment staff member to address the objection. In its oral decision, the CARB ruled that the Respondent had fully stated his case and there was no need to hear much the same argument from another person. Everything in the rebuttal document related to sales put forward by the Respondent.

**Property Description:**

The property that is the subject of this assessment complaint is a large multi-tenant industrial building located at 4920 – 72 Avenue SE in the Foothills Industrial area of Calgary. It comprises a 10.97 acre serviced lot improved with a single 294,672 square foot (rentable area) industrial building, constructed circa 1991. About 13% of the building area was developed into office space. The site coverage ratio for this building is 57.48%.

The 2010 assessment of \$19,590,000 indicates a rate of about \$66 per square foot of building area.

**Issues:**

The Complainant raised the following matters in section 4 of the complaint form: Assessment amount and Assessment class.

The Complainant also raised the following specific issues in section 5 of the Complaint form:

1. The subject property is assessed in contravention of Section 293 of the Municipal Government Act and 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 289(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 characteristics and physical condition of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, management, non-recoverables and cap rates; indicating an assessment market value of \$53 per square foot.
6. The assessment regression model method is incorrect and does not accurately reflect the market value for assessment purposes of the subject property.
7. The aggregate assessment per square foot applied is inequitable with the assessments of similar and competing properties and should be \$60 per square foot.
8. The aggregate assessment per square foot applied to the subject property does not reflect market value for assessment purposes when using the direct sales comparison approach and should be \$70 per square foot.

At the outset of this hearing, the Complainant stated that only the equity issue (No. 7 in the above list) would be argued for this property.

Issue 7: The aggregate assessment per square foot applied is inequitable with the assessments of similar and competing properties and should be \$60 per square foot.

**Complainant's Requested Value:**

\$17,680,000

**Board's Decision in Respect of the Issue:**

Issue 1:

A list of 13 comparable properties was put forward by the Complainant. All were multi-tenant properties in Foothills Industrial. Some were single buildings while others were properties with two or three separate buildings. Floor areas varied as did site coverage ratios. Ten of the 13 buildings were 10 to 15 years older than the subject. The analysis undertaken by the Complainant included determining the annual rental rate that would be required to support the assessed value using an 8.0% capitalization rate and a 5.0% vacancy allowance. The array of derived rental rates was from \$5.04 to \$6.44 per square foot.

For purposes of comparison, the Complainant also included the rental rates (base and adjusted) that had been used by the City of Calgary in 2005 when industrial properties had been assessed using the income approach. The Complainant stated that there was no suggestion that these rental rates would be applicable for a 2009 valuation but that they were included to show comparability between properties.

The array of assessed values on a per square foot of building area basis was from \$59.98 to \$76.63. From the table, the Complainant determined that a rate of \$60.00 per square foot would be applicable to the subject.

The evidence of the Respondent included a table summarizing sales data on eight industrial properties that sold between the dates of December 2006 and May 2009. Time adjusted sale prices ranged from \$71 to \$135 per square foot of building area.

Equity evidence from six properties was in the Respondent's brief. One property had two buildings on it and each building was entered as a separate comparable. A second brief was in evidence that provided assessment details on all Foothills Industrial properties with buildings containing more than 100,000 square feet. That evidence showed that the subject assessment at \$66.51 per square foot of building area was within the range from \$60.00 to \$82.11 per square foot for multi-tenant buildings. Based on his analysis of properties with consideration to factors such as age, site coverage, office finish ratio and total building area, the Respondent considered the subject property assessment to be well supported.

### **Findings**

In view of the above considerations, the CARB finds as follows with respect to the Issue:  
With consideration given to all characteristics of the subject property, the CARB finds that the equity comparables of both parties tends to support the subject assessment.

### **Board's Decision:**

The Complaint fails and the 2010 assessment of the subject property is confirmed at \$19,590,000.

DATED AT THE CITY OF CALGARY THIS 21<sup>st</sup> DAY OF July 2010.

  
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W. Kipp  
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.*