

**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-26.1, 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:

**ROLL NUMBER: 116013392**

**LOCATION ADDRESS: 8080 – 36 Street SE, Calgary AB**

**HEARING NUMBER: 58947**

**ASSESSMENT: \$25,400,000**

This complaint was heard on the 22<sup>nd</sup> to 24<sup>th</sup> days of June, 2010 at the office of the Assessment Review Board located at Floor Number 4, 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 58947 was one of several hearings on similar, very large (over 100,000 square feet of building area) 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 for this property was supplemented by a binder of evidence that was applicable to all of the large property complaints to be heard. The only issue regarding the assessment of the subject property was equity.

As a preliminary matter, both parties had rebuttal documents that they wished to file for the hearings involving large industrial properties. These documents had been properly filed for other files that were on the same agenda, however, an oversight left them out of the filings for 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 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 file 58947)
- 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 property comprising two buildings located at 8080 – 36 Street SE in the Foothills Industrial area of Calgary. It comprises a 20.04 acre serviced lot improved with a 342,401 square foot and a 60,390 square foot (rentable area) industrial building, constructed circa 1979. About 17% to 18% of the total building area was developed into office space. The site coverage ratio for these buildings is 46.15%.

The 2010 assessment of \$25,400,000 indicates a rate of about \$63 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 assessment of the subject property is in excess of its market value for assessment purposes when using the direct sales comparison approach.
6. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.
7. Due to the characteristics and physical condition of the subject property, the income approach would yield a more reliable estimation of market value for assessment purposes.
8. The municipality is incorrectly and improperly assessing properties upon which there are multiple structures, resulting in assessments that are unfair and inequitable.

At the outset of this hearing, the Complainant stated that only the equity issue (No. 6 in the above list) would be argued for this property.

Issue 6: The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.

**Complainant's Requested Value:**

\$24,160,000 (\$60.00 per square foot of building area)

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

Issue 6:

A list of three comparable properties was put forward by the Complainant. All were multi-tenant properties in Foothills Industrial. All were single building properties. Floor areas varied as did site coverage ratios. There was no significant variance in ages. Assessed rates per square foot of building area were from \$59.98 to \$60.53. The analysis undertaken by the Complainant concluded that the subject should be assessed at \$60.00 per square foot.

The evidence of the Respondent included a table summarizing assessment rates of five industrial buildings with under 100,000 square feet of area and a list with assessment rates of all Foothills Industrial properties having an area of over 100,000 square feet. That evidence showed that the subject assessment at \$63.00 per square foot of building was within the range that was from \$60.00 to \$82.11 per square foot for multi-tenant buildings of over 100,000 square feet and well below the \$76.00 to \$114.00 range for buildings with less than 100,000 square feet. The Respondent concluded that the subject assessment rate was well supported by the equity evidence.

**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 tend to support the subject assessment. In any event, the Complainant's requested assessment is just 4.88 percent lower than the current assessment and the Board is reluctant to make adjustments of less than 5.0 percent when it understood that a tolerable range for assessments done on a mass appraisal model would be five percent in either direction. Had there been compelling evidence that the assessment was incorrect, the Board would not be obligated to decline to make an assessment adjustment even if that adjustment is a reduction of less than five percent.

**Board's Decision:**

The Complaint fails and the 2010 assessment of the subject property is confirmed at \$25,400,000.

At the beginning of this decision, the admission of evidence from the parties was discussed and a decision made to allow additional documents from the parties. These documents related to specific valuations and valuation methods that were not pursued in this complaint hearing. Since Equity was the only issue that was pursued, the Board did not address any of the unrelated evidence.

DATED AT THE CITY OF CALGARY THIS 15<sup>th</sup> DAY OF July 2010.

  
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.*