

**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 Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 201120359

LOCATION ADDRESS: 5144 – 80 Avenue SE, Calgary AB

HEARING NUMBER: 59870

ASSESSMENT: \$7,080,000

This complaint was heard on the 25th day 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:

- John Smiley

Appeared on behalf of the Respondent:

- Ian Baigent, Irene Pau

Property Description:

A multi-bay, multi-tenant industrial warehouse property located in the Foothills Industrial area of southeast Calgary. The 1981 building contains a rentable area of 86,678 square feet, 25% of which is developed as office space. The building occupies a 4.47 acre serviced industrial lot, indicating a 44.5% site coverage ratio.

Issues:

The Complainant raised the following matters in section 4 of the complaint form: Assessment Amount; 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 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 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 used 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 other similar and competing properties and should be \$60 per square foot

However, at the hearing, the Complainant focused on the issue of equity (Issue 7). The equity based amount requested in the form (\$60 per square foot) was amended to \$73.39 per square foot in the evidence presented at the hearing.

The second, related issue pertained to the classification of the property as multi-tenant rather than single tenant which would be within the realm of the Assessment Classification check-box at Section 4 of the complaint form.

During the hearing, the Respondent argued that an application of the income approach to value, similar in form to that used by the Complainant in other complaints, would tend to support the assessment. The valuation of this property by the income approach had not been raised as an issue by the Complainant in this hearing. Further, there was no evidence put forward by the Respondent, other than the oral argument. The CARB did not take any of this income approach argument into account in its decision.

Complainant's Requested Value:

\$6,360,000

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

Issue 1: Equity

Assessment comparables were provided by both the Complainant (6 comparables) and the Respondent (7 comparables). 2 of the 6 comparables provided by the Complainant and 4 of the 7 from the Respondent were single occupancy properties whereas all other comparables were multi-tenant properties. The comparables provided by both parties bracketed the subject's floor area although all of the Respondent's were smaller. Ages of all comparables were relatively close (within 8 years age variance) to that of the subject. Site coverage ratios varied from 43.68% to 54.75% for the Complainant's comparables and from 31% to 43% for those of the Respondent, compared to 44.5% for the subject. Assessed values per square foot ranged from \$71.63 to \$77.11 (median of \$73.39) per square foot for the Complainant's comparables and from \$77 to \$87 per square foot for the Respondent's seven comparables. The subject assessment is at \$81.68 per square foot.

Findings

The CARB finds that overall, the comparables of the Complainant are superior. The Respondent repeatedly emphasized that site coverage ratio was the critical factor for comparison between properties and all of its comparables had ratios that were lower than that of the subject (some were less than 40 percent) which, in the opinion of the parties, would indicate higher assessed values per square foot. Some of the Complainant's comparables had floor area ratios of more than 50 percent, a factor that would tend to produce lower rates per square foot.

The subject property has a higher ratio of finished area (offices) than is typical. None of the comparables provided by the parties had ratios as high as the subject's 25 percent. While there was no evidence before the Board on which to make an adjustment, it was agreed that higher amounts of office development will typically lead to higher assessments.

During the hearing, the Respondent opined that it was his understanding that the CARB would apply its own coefficients to evidence before it and thereby determine the correct assessment using statistical analysis. He added that such an analysis would require the use of a multiple regression statistical analysis program and he believed that the Board would have access to such software. He conceded during questioning that the evidence to make such statistical analyses and adjustments was not before the Board.

The mandate of the CARB is to hear evidence regarding a complaint against a property assessment

and to make a decision based on the evidence before it. It is not up to the Board to independently find its own evidence and "apply its own coefficients" thereby producing its own assessment.

All of the assessment comparables have similarities to the subject property but there are some where adjustments would have to be made. In reviewing the evidence of the parties from the perspective of comparability, the Board finds that an assessment rate of \$77 per square foot of building area is supported by the evidence of both parties. When applied to the total building floor area of the subject property, the indicated equitable assessment is \$6,674,206.

Issue 2: Property Classification

The assessment model used by the City of Calgary for industrial properties relies upon application of a mass appraisal model of the direct sales comparison approach. Certain criteria pertaining to properties is input into the model. One of the industrial warehouse property features that is considered is whether a property is a single tenant property or a multi-tenant property.

The subject property is assessed as a single tenant industrial warehouse.

A copy of the Assessment Request For Information form for 2009 shows that there are a number of tenants in the property. The Respondent conceded that it is a multi-tenant property and that multi-tenant properties often have lower assessments per square foot than single tenant properties. He was not prepared to offer a revised assessment based on the multi-tenant classification.

Findings

The Board accepts the Complainant's evidence that shows that this is a multi-tenant industrial warehouse. Neither of the parties provided evidence regarding adjustments for multi-tenant versus single tenant occupancy but it was clear that such an adjustment would typically be considered. When reviewing the comparability of the properties offered by the parties as assessment comparables, the Board put weight on those that were multi-tenant properties like the subject. There is therefore no further adjustment made.

Board's Decision:

The evidence in this case that had regard to the equity issue supported an assessment of the order of \$77 per square foot of building area. This was a rate derived from multi-tenant industrial warehouse comparables provided by both parties.

The assessment is therefore reduced to \$6,670,000.

DATED AT THE CITY OF CALGARY THIS 15th 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.*