

**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 Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

L. Loven, PRESIDING OFFICER

J. Mathias, MEMBER

R. Roy, MEMBER

These are complaints to the Calgary Assessment Review Board in respect of Property assessments prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBERS	LOCATION ADDRESSES	FILE NUMBERS	ASSESSMENTS
042500405	1 B 4500 16 AV NW	59724	\$ 3,100,000
042500504	100 4500 16 AV NW	59730	\$ 2,790,000
042500801	100 4520 16 AV NW	59757	\$ 1,590,000
042500900	150 4520 16 AV NW	59758	\$ 1,010,000

These complaints were heard on the 26th day of July, 2010 at the office of the Assessment Review Board located at 3rd Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *Danielle Chabot – Representing Altus Group Inc., as agent for Westfield Northwest Centre Ltd.*

Appeared on behalf of the Respondent:

- *Bob Partridge – Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural matters were raised during the outset of the hearing, and the Board proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The four properties under complaint consist of 11,807, 9,980, 3,623, and 3,623 square foot commercial (office) condominiums, respectively. All four properties are within the Montgomery community located in northwest Calgary.

Issues:

The Complainant raised the following matters in section 4 of the complaint forms: assessment amount.

The Complainant, in section 5 of the Complaint forms, requested the preliminary assessments \$2,210,000 for roll number 04500405, \$1,990,000 for 042500504, \$1,140,000 for 042500801, and \$724,000 for 042500900, respectively; and, provided the following reasons for complaint:

Grounds for appeal:

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 properties 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 aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties and should be \$200;
6. The characteristics and physical condition of the subject property support the use of the income approach utilizing typical market factors of rent, vacancy, management non-recoverables and cap rates, indicating an assessment market value of \$200;
7. The valuation method used for the subject property is fundamentally flawed in both deviation and application.
8. The property characteristics have not been properly *(described)*; and

9. The assessed area is incorrect.

As of the date of this hearing, the Complainant confirmed only items #3 and #6 of the above issues remained in dispute.

The Board considered the evidence, regarding the subject properties, as given in the Complainant's Evidence Submission and as submitted in the hearing as follows:

- (a) The requested assessments given on page 26 are based on \$224 per square foot;
- (b) A map showing the location of the subject properties in the community of Montgomery;
- (c) A block plan showing the outline of the building that comprises, in part the subject properties as 4500 located at 16 Avenue NW and 44 Street NW;
- (d) Photographs of the subject properties;
- (e) Assessment Summary Reports of the subject properties, noting all four assessments are based on \$280 per square foot;
- (f) Sale comparables of properties located at, 202, 1915-27 Avenue NE, 200, 325-Manning Road NE and 105, 20-Sunpark Plaza NE, noting the first comparable at 1915-27 Avenue NE should be struck as it is an industrial condo, not an office condo like the subject properties;
- (g) Photographs of the sale comparables;
- (h) A condominium plan in which the Manning Road sale comparable is located;
- (i) Equity comparables located at 101-105 and 201-205, 200-Country Hills Landing, noting the current assessment is based on \$2250 per square foot;
- (j) Photographs of the equity comparables; and
- (k) Assessment Summary Reports for the equity comparables.

The Board then considered the evidence, regarding the subject properties, given in the Complainant's Assessment Brief and as submitted in the hearing as follows:

- (a) The 2010 Commercial Condo Assessment Explanation Report for 4500-16 Ave NW showing an assessed rate of \$280 per square foot;
- (b) A Condominium Plan in which the subject properties are located;
- (c) Six sales comparables located at 207, 4603 Varsity Drive NW, A and D, 2220-7 Avenue NW, A, and 102-104, 429-14 Street NW;
- (d) Photographs of the sales comparables;
- (e) Twenty-four equity comparables, nine located at 4603-Varisty Drive NW, four at 4500 and 4520-16 Avenue NW, 10 at 1015-Centre Street NW and one at 316-14 Street NW.
- (f) Twenty-four equity comparables, two located at 312/310-14 Street NW, one at 145 Point Drive W, one at 10 Street NW, two at 4-14 Street NW, two at 1710-14 Avenue NW, eleven at 200 Country Hills Landing, three at 2220-7 Avenue NW and two at 429-14 Street NW, noting the comparables located at Point Drive and 10 Street are assessed at \$280 per square foot;
- (g) Four equity comparables, two located at 429-14 Street NW and two at 1700-Varisty Estates Drive NW;
- (h) Photos of equity comparables located at 2220-7 Ave NW, 4-14 Street NWE101-10 Street NW, 145 Point Drive NW, 316-14 Street NW, 1015-Centre Street NW, and 200-Country Hills Landing NW;
- (i) 2010 Industrial Assessment Explanation Supplement and RealNet Industrial Transaction Summary for 202, 1915-27 Avenue NE, 200, 325-Manning Road NE, 105, 120 and 208, 20-Sunpark Plaza SE, 11, 1915-32 Avenue NE, 105, 111-14 Avenue SE303, 221 10 Avenue SE, 209, 264 Midpark Way SE; and

- (j) Additional information including, Avison Young Business Condominium Reports for Spring 208, Year End 2008, Mid-Year 2009, and Assessment Requests for Information for 380, 606-4 Street SW, 1B, 4500-16 Avenue NW, and Calgary Assessment Review Board Assessment Notices of Decision for the 2009 roll year for the subject properties.

No rebuttal was submitted by either the Complainant or the Respondent. Summaries were provided by both the Complainant and Respondent. The Complainant provided final remarks.

Complainant's Requested Value:

As revised on page 46 of the Complainant's Evidence Submission: \$2,483,000 for roll number 042500405; \$2,235,500 for 042500504; \$1,278,000 for 042500801; and, \$811,500 for 042500900, respectively.

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

In view of the above considerations, the Board finds as follows:

1. Two of three sales comparables provided by the Complainant were similar to the subject properties in use as office condos, newer and superior in location. The subject properties have underground parking and two sales comparables do not. The sales comparables were assessed at \$260 and \$270 per square foot, versus \$280 for the subject properties. Accordingly, the Board places weight on these comparables.
2. Regarding 2010 assessments at \$250 per square foot for eleven condominium units, located at 200 Country Hills Landing NW was persuasive evidence provided by the Complainant to warrant a reduction;
3. The Board accepts the evidence provided by the Complainant that 101, 200-Country Hills Landing NW is currently assessed at \$250 per square foot. The Complainant's argument that 200 Country Hills Landing is newer, superior in quality and better located than the subject property, excepting underground parking at the subject property, supports an equitable reduction of assessed values that is based on \$250 per square foot;
4. The valuation method applied in this instance is the Sales Comparison Approach. The use of this approach to value is contextually allowed in the legislation. The Complainant did not advance any argument or evidence to support the contention that an error had been made in the application of the Sales Comparison Approach in preparing these assessments.

Board's Decision:

The assessments are amended as follows: \$2,770,000 for roll number 042500405; \$2,490,000 for 042500504; \$1,420,000 for 042500801; and, \$900,000 for 042500900, respectively.

DATED AT THE CITY OF CALGARY THIS 16th DAY OF AUGUST 2010.



L.R. LOVEN
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.*