

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a complaint filed with the Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, being Chapter M-26, Section 460(4) of the Revised Statutes of Alberta (Act)

between:

Altus Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, L. LOVEN
Board Member, J. MATHIAS
Board Member, R. ROY***

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:	LOCATION ADDRESS:	HEARING NUMBER:	ASSESSMENT:
059153494	609 14 ST NW	59638	10,590,000

This complaint was heard on 27th day of July, 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:

- *Brock Ryan – Representing Altus Group Inc., as agent for Westfield Kensington Ltd.*

Appeared on behalf of the Respondent:

- *Scott Powell – 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 property under complaint consists of a 49,523 square foot commercial (office/retail) building. The property is within the northwest quadrant of Calgary.

Issues:

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

The Complainant, in section 5 of the Complaint form, requested a preliminary assessment of \$7,410,000, 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 assessed rental rate applied to the subject property should be lowered to below \$18.50 per square foot;
6. Account for a variety of risk factors the capitalization rate should be increased to over 8.5%;
7. The assessed vacancy applied to the subject property should be increased to above 8%; and,
8. The assessment has incorrectly and inequitably failed to account for expenses associated with parking revenue and vacancy.

As of the date of this hearing, the Complainant confirmed none of the above issues remained in dispute.

The board considered the request of the Complainant to confirm the assessment.

No evidence was submitted by the Complainant, or the Respondent.

No rebuttal was submitted by either the Complainant, or by the Respondent. No summaries were provided by either the Complainant, or the Respondent. The Complainant did not provide final remarks.

Complainant's Requested Value:

As revised at the hearing: \$10,590,000.

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

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

1. The Board accepts the request of the Complainant to confirm the assessment; and,
2. The valuation method applied in this instance is the Income 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 Income Approach in preparing these assessments.

Board's Decision:

The assessment is confirmed as follows: \$10,590,000.

DATED AT THE CITY OF CALGARY THIS 19th 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.*