

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

Altus Group Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

H. Kim, PRESIDING OFFICER

R. Roy, MEMBER

E. Reuther, MEMBER

This is a complaint 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 NUMBER:	101034007
LOCATION ADDRESSES:	321 50 Ave SE
HEARING NUMBERS:	58881
ASSESSMENTS:	\$3,100,000

This complaint was heard on the 19 day of August, 2010 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *Christine Van Staden*

Appeared on behalf of the Respondent:

- *Todd Luchak*

Property Description:

The subject is a 16,275 sq. ft. one-storey single tenant (owner occupied) warehouse on a 2.09 acre parcel of land in the Manchester Industrial district in the central zone, designated Industrial General (I-G). It was constructed in 1969 and has 17% finished area and 17.9% site coverage. The building is assessed on the sales comparable approach at \$190 per sq. ft.

Issues:

The Complainant identified a number of issues on the Complaint form, however, at the hearing, the issues argued and considered were:

1. Is the subject property assessed inequitably with other similar properties?
2. Do the sale prices of comparable properties demonstrate that the assessment is in excess of market value?
3. Does the income approach to value provide a better estimate of market value for assessment purposes?

Complainant's Requested Value: \$2,010,000 revised to \$1,780,000 at the hearing

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

Issue 1 – Equity

Complainant's position:

The Complainant presented 8 equity comparables in close proximity with net rentable areas within a reasonable range of the subject:

	Address	Area	AYOC	% finish	Lot size	Site coverage	Assmt	Asmt/sf
S	321 50 Ave SE	16,275	1969	18%	2.09	17.90%	3,100,000	190.48
1	444 42 Ave SE	18,132	1958	12%	1.16	35.92%	2,400,000	132.36
2	4201 6 St SE	14,000	1966	79%	0.95	33.83%	2,260,000	161.43
3	4412 Manilla Rd SE	16,800	1979	65%	0.82	47.24%	2,390,000	142.26
4	250 42 Ave SE	24,090	1998	60%	1.79	21.06%	4,550,000	188.88
5	7260 11 St SE	16,619	1982	42%	0.86	34.86%	2,560,000	154.04
6	7309 Flint Rd SE	17,990	1966	40%	1.83	16.85%	3,320,000	184.55
7	3320 9 St SE	16,180	1967	23%	1.31	28.27%	2,670,000	165.02
8	3405 9 St SE	16,584	1966	17%	1.05	36.34%	2,380,000	143.51

With adjustments for site coverage and finished area, the indicated value based on equity is

\$150 per square foot or \$2,440,000.

Respondent's position:

The Respondent disputed the similarity of the Complainant's comparables, stating that generally the site coverage was significantly higher, and one (#5) was in the southeast zone, not the central zone. He presented 7 equity comparables in close proximity with similar site coverage:

	Address	Area	AYOC	% finish	Lot size (ac)	Site coverage	Building Value	\$/sf
S	321 50 Ave SE	16,275	1969	18%	2.09	18%	3,107,115	191
1	3240 11 St SE	13,947	1968	15%	1.54	23%	2,682,736	192
2	3620 Blackburn Rd SE	10,800	1945	22%	1.19	19%	2,289,384	212
3	4609 Manitoba Rd SE	11,437	1967	2%	1.24	21%	2,381,255	208
4	3611 9 St SE	13,400	1960	18%	1.28	24%	2,561,833	191
5	5525 1 St SE	15,000	1974	0%	2.07	19%	2,935,926	196
6	5513 3 St SE	10,200	1958	27%	1.01	23%	2,145,116	210
7	829 Highfield Ave SE	10,793	1664	27%	1.22	18%	2,363,383	219

Comparables with site coverage similar to the subject support the assessment per sq. ft.

Complainant's rebuttal:

Two of the Respondent's comparables are the building value of one building on a multi-building site. Comparable 1 has 3 buildings with a total area of 15,563 sq. ft. and a total assessment of \$2,690,000 for an assessment per sq. ft. of \$173. Comparable 5 has 2 buildings with a total area of 17,050 and total assessment of \$2,950,000 for an assessment per sq. ft. of \$173.

Decision and Reasons:

The Respondent's comparables were not helpful, as the single building properties were all substantially smaller than the subject. The Board agrees with the Complainant that the extracted single building values from multiple building parcels are not comparable.

Of all the equity comparables presented, the Board considers the Complainant's comparable #8 the best. It is virtually identical to the subject, except the subject parcel size is 2.09 acres compared to 1.05 acres. The Board had considered the value of additional land in a hearing heard the previous day, and had found that additional land should be valued at the Respondent's incremental land rate of \$300,000 (ARB 1195/2010P). The Board finds that the \$720,000 difference in the two assessments is excessive and the assessment is not equitable with similar properties.

Issue 2 – Value based on sales of comparable properties

Complainant's position:

The Complainant presented 5 comparable properties in the Northeast, Central and Southeast region that sold between July 2007 and April 2009. They ranged in size from 14,630 to 16,939 sq. ft. with site coverage of 22.6% to 41.5% and parcel sizes of 0.86 to 1.72 acres. The City's time adjusted sale prices (TASP) were used to arrive at a value per sq. ft. of \$114 to \$246, which when adjusted for various differences support a value for the subject of \$150 per sq. ft. or \$2,440,000.

Respondent's position:

The Respondent presented 8 sales between May 2007 to January 2009 in the Central and Northeast districts ranging from 10,450 to 22,300 sq. ft. with site coverage between 15.73% and 34%. The time adjusted sale prices (TASP) were \$192 to \$230/sq. ft. and support the assessment at \$191/sq. ft.

Complainant's rebuttal:

The Complainant presented RealNet and ADS reports of some of the City's sales to demonstrate that three of them had additional buildings, increasing the rentable area of the sales presented. They were permanent buildings, clearly listed and included in the sale price notwithstanding that the Respondent considers them outbuildings and assesses them at \$10 per sq. ft. Based on the actual total net floor areas, the TASP per sq. ft. are \$114, \$159 and \$214 (not \$222, \$198 and \$216 respectively), and support the Complainant's analysis of value based on direct sales comparison of \$150 per sq. ft.

Decision and Reasons:

Due to the large differences between the subject and the sales comparables, the Board could not reach any conclusion of value based on the sales approach from the sales presented, however it appeared the range of values would be in the order of \$150 to \$200 per square foot.

Issue 3 – Value based on Income Approach**Complainant's position:**

In order to meet the assessed value, the subject property would have to achieve a rent rate of \$16 per sq. ft. The subject is owner occupied so there is no rental information available, however the Complainant presented 14 warehouse leases in the Central Region with rentable areas between 10,800 and 22,980 sq. ft. and commencement dates from January 2008 to March 2009. The lease rates were \$5 to \$10.50 per sq. ft. with a median of \$8.25, and a median of \$9.25 for the two newest leases in 2009. Applying the \$9.25 rate and based on parameters of 5% vacancy and 8% cap rate for older properties that had been determined in previous Board decisions and accepted by the Respondent, the value of the subject based on the income approach is \$1,787,707 truncated to \$1,780,000. The Complainant stated that the principles established under *Assessor for Area 9 – Vancouver v. Bramalea Limited (1990) 52 B.C.C.A.* entitle the taxpayer to the lower of fairness and equity or market value. Based on the income approach, the market value is \$1,780,000.

Respondent's position:

The Respondent highlighted the Assessment Request for Information (ARFI) that had been provided by the building owner in April 2009. The Total Rentable Area is noted as 65,340 sq. ft. however the total leased area is shown as 15,371 sq. ft. The Respondent noted the discrepancy but did not directly address the income approach as the assessment had been prepared based on the sales comparison approach.

Decision and Reasons:

The Board does not agree that the market value based on the income approach should be used for assessment purposes in a situation where sales comparables indicate a higher value. While the sales presented were not very comparable, it was clear the value was something more than the \$109/sq. ft. requested amount based on the income approach. To the extent that the fenced storage yard is used for the building owner's business operations and it appears that the area of the fenced compound represents the 65,340 sq. ft. rentable area listed in the ARFI, the lease rate used in the analysis may be lower than what could be achieved if the value attributable to the storage yard were included. It is also possible that the value of the land, which would not necessarily be captured in an income approach calculation, results in additional value in the marketplace.

Board's Decision:

The complaint is allowed, in part, and the assessment is reduced to \$2,690,000 based on the \$2,380,000 assessment of the Complainant's equity comparable #8 plus 1.04 acres of land at \$300,000/acre. This value is \$165/sq. ft. and preserves equity, as well as falling within the range of the sales presented.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF August 2010.



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.*