

**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 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:	091032300
LOCATION ADDRESS:	5005 12A St SE
HEARING NUMBER:	59421
ASSESSMENT:	\$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:

- *Randall Worthington*

Appeared on behalf of the Respondent:

- *Todd Luchak*

Property Description:

The subject is a single tenant warehouse of 21,000 sq. ft. rentable area with a 19,500 sq. ft. footprint on a 1.43 acre parcel of land in the Highfield Industrial district in the central zone, designated Industrial General (I-G). It was constructed in 1995 and has 14% finished area and 31.33% site coverage. It is assessed on the sales comparable approach at \$147 per sq. ft.

Issues:

The Complainant identified the following issues on the Complaint form:

- The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.
- 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.
- The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
- The information requested from the municipality pursuant to section 299 or 300 of the Municipal Government Act was not provided.
- The characteristics & 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 \$92 psf.
- The rent needed to achieve the subject assessed value is unattainable in the market for the subject property.
- The aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties and should be \$111 psf.
- The aggregate assessment per square foot applied to the subject property does not reflect market value for assessment purposes when using the direct sales comparison approach and should be \$106 psf.
- The assessment regression model method used is incorrect and does not accurately reflect the market value for assessment purposes of the subject property.
- The City has not appropriately adjusted the sales used in the multiple regression approach.
- The direct sales comparison approach used by the City has included sales that should not be considered in determining market value of the subject property.

At the hearing, the issues argued and considered by the Board were:

1. Is the City's assessment model flawed and does the income approach provide a better estimate of market value for the subject?
2. If the income approach is appropriate, what lease rate should be used in the analysis?

Complainant's Requested Value: \$1,790,000 revised to \$2,090,000 at the hearing

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

Issue 1 – Comparability of sales

Complainant's position:

The Complainant referred to a package that had been entered for a number of hearings previously heard that attacked the reliability of the sales approach used by the City. Specifically, he referenced the following points:

- There were 156 improved industrial property sales between July 6, 2006 and June 24, 2009 used in the Respondent's analysis to develop the model for the sales comparison approach to value. Based on the time adjusted sale prices (TASP), the assessment to sales ratio (ASR) of the properties were plotted graphically and show that a very small proportion (27%) fall within the acceptable range of 0.95 to 1.05 ASR. A much greater proportion (39%) have an ASR greater than the acceptable range, and the Complainant suggested that this supports his argument that the subject is over-assessed.
- The sales were not properly stratified, resulting in certain characteristics being valued disproportionately compared to others.
- The sales analysis does not account for the volatility in the market that existed at and prior to the valuation date.

When evaluated on the income approach (using previously accepted parameters of 5% vacancy and 7.5% cap rate) the subject would have to achieve a rental rate of \$11.25 per square foot to support the assessment. The Complainant submitted that this was unrealistic, and that the income approach provides a more reliable estimate of market value for assessment purposes.

Respondent's position:

Many warehouses are owner occupied and therefore lease information is limited. The sales comparison approach provides a better estimate of market value. The Respondent submitted 5 sales in various locations in the Central and Southeast regions:

#	Address	NRZ	Sale date	Parcel size	% coverage	AYOC	Rentable Area	% fin	SP (Asmt):	TASP	TASP /sf
S	5005 12A St SE	HF2		1.43	31.33%	1995	21,000	14%		3,102,697	148
1	2010 11 St SE	BB3	Apr-08	0.80	35.13%	1951	9,593	43%	1,850,000	1,742,002	182
2	4640 Manhattan Rd SE	NM2	Jun-08	0.86	27.81%	1967	10,450	43%	2,400,000	2,259,895	216
3	3640 61 Ave SE	FH1	Jan-07	1.03	36.15%	1979	19,600	34%	2,820,000	3,041,132	155
4	6020 3 St SE	SM3	Nov-07	1.98	25.14%	1970	16,190	18%	3,400,000	3,201,518	198
5	5472 56 Ave SE	SF1	Aug-08	1.25	25.20%	1996	13,700	18%	2,750,000	2,615,553	191

Sales 1 and 2 are not as comparable because they are two-building parcels with a total area substantially smaller than the subject. Sales 3 to 5 are more comparable and support the assessment.

The Respondent also provided seven equity comparables of the building value of warehouses in the Central zone in close proximity to the subject, with 10,553 to 23,216 sq. ft. rentable area and

assessments per sq. ft. of \$148 to \$204. The equity comparables support the assessment of the subject.

Complainant's Rebuttal:

Sales comparables 3 and 5 are in Foothills and not comparable to the subject. Further, Sale 3 is a multi-tenant building and it is assessed at \$109/sq. ft. notwithstanding the sale price of \$155. Sale 4 had 2 buildings and the actual sale price per sq. ft. is \$126, not \$198. The City chose to assess the second building as an outbuilding and not include it in the analysis, but it is a permanent building and was included in the selling price.

The equity comparables do not support the assessment because they are drawn from the model, and if the model is flawed the equity comparables are flawed as well.

Decision and Reasons:

The sales presented by the Respondent were not convincing, being too dissimilar to the subject. The Board agreed with the Complainant that the most comparable sale, at 6020 3 St SE, did have a much larger rentable area than was included in the Respondent's analysis, and while it was not clear precisely how much a buyer would have allocated for the value of the additional building, it clearly was included in the sale and contributed to the sale price.

The unreliability of the sales data convinced the Board that the income analysis would present a more reliable indication of the value of the subject.

Issue 2 – Lease rate

Complainant's position:

The Complainant presented six lease comparables in the central district, including the subject, to support a typical market rent of \$7.93 based on the median of the comparable leases:

Address	AYOC	District	Area (SF)	Start date	Rate
5716 Burbank Cr SE	1972	Burns	16,916	01-Sep-07	10.00
510 77 Ave SE	1964	Fairview	18,600	01-May-07	6.00
7003 5 St SE	1974	Fairview	19,495	01-Sep-08	6.00
5005 12A St SE	1995	Highfield	21,000	01-Jul-07	7.86
1226 26 Ave SE	2002	Bonnybrook	22,980	01-Mar-08	10.50
5622 Burleigh Cr SE	1972	Burns	24,000	01-Mar-08	8.00

The median is very close to the actual lease rate for the subject, which commenced in July 2007 at \$7.86/ sq. ft. as indicated on the completed Assessment Request for Information (ARFI) submitted to the Respondent on March 30, 2010. The Complainant suggested that this was the most appropriate rate to use for valuation. The Board has previously issued decisions accepting 5% vacancy and 7.5% cap rate for industrial buildings 1995 and newer. Using those parameters, the value based on the income approach is \$2,090,000.

Respondent's position:

The Respondent disputed the Complainant's lease rates, providing 5 warehouse leases that were substantially higher than the ones provided by the Complainant:

#	Address	Mkt Area	Area (SF)	Start date	Rate
1	5732 1 St SE	SM1	1,690	Aug-08	12.00
2	4036 7 St SE	HF1	2,080	Jul-08	12.00
3	4960 13 St SE	HF2	11,267	Jul-07	10.00
4	3815 8 St SE	HF1	11,616	Jul-09	10.00
5	1345 Highfield Cr SE	HF2	14,190	Sep-07	13.28

The median of these leases is \$12.00 and the average is \$11.88 which support the assessment.

Decision and Reasons:

The lease rate paid by the tenant of the subject building commenced in 2007, and the Board was not convinced that this represented typical lease rates in the relevant valuation period. The Board considered the lease rates submitted by both parties and determined the only 2009 lease was a \$10 rate in July 2009 for a space in Highfield. The Board analyzed the Complainant's lease rates, removing the subject and the two leases in Fairview which are some distance from the subject, and determined the median is \$10. Accordingly, the Board found that a \$10 lease rate would be appropriate for valuing the subject on the income approach.

Board's Decision:

The complaint is allowed, in part, and the assessment is reduced to \$2,660,000 based on a \$10 lease rate, 5% vacancy and 7.5% cap rate.

DATED AT THE CITY OF CALGARY THIS 30 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.*