

**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 Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

L. Patrick, PRESIDING OFFICER

K. Coolidge, MEMBER

P. Charuk, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	116009812
LOCATION ADDRESS:	6815 40 Street SE
HEARING NUMBER:	55953
ASSESSMENT:	\$11,130,000

This complaint was heard on the 26th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 01.

Appeared on behalf of the Complainant:

- J. Smiley *for Complainant*

Appeared on behalf of the Respondent:

- I. Baigent *for Respondent*

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

The Complainant advised the Board that it would be presenting a rebuttal following the Respondent's presentation. It was determined that the Rebuttal Brief being tendered by the Complainant at the hearing differed from the Rebuttal Brief that had been disclosed to the Respondent and that had been filed previously with the Board. On the basis that the Respondent will not consent to introduction of the Rebuttal Brief being tendered into evidence at the hearing it was ordered that it would not be accepted into evidence by the Board nor could the contents be submitted or argued orally at the hearing.

Property Description:

The subject property is a 88,688 square foot industrial warehouse, multi tenant located on an 8.80 acre site at 6815 40 Street SE. The building was constructed in 1981 and the site coverage is 18.98% resulting in there being 3.58 acres of extra land.

Issues:

1. Is the income approach or the direct sales comparison approach the best method of determining market value for the assessment of the subject.
2. If the income approach is the best method what are the typical market factors for rental, vacancy, management, non-recoverables and capitalization rates to properly determine market value.

Complainant's Requested Value: \$9,810,000

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

Complainant's Position

The Complainant contends that the sales comparison approach to value applied by the Respondent is not the best method of determining market valuation for the industrial property in Calgary because of rapidly changing market conditions. The Complainant cites, as support for use of the income approach to valuation, the comments from the *Market Value and Mass*

Appraisal for Property Assessment in Alberta; Valuation Guide that the income approach adjusts readily to changing market conditions and that where lease and rental data are available, the income approach can be used. In support of its position respecting rapidly changing market conditions the Complainant provided graphs illustrating the market collapse experience by the composite stock markets and contended that it was reflected in the real estate market as expressed in industry periodicals. The period reflected in these items took place from the second quarter of 2008 to the third quarter of 2009 and thus included the assessment date of July 1, 2009.

The Complainant provided 4 lease rate comparables as evidence that lease and rental data respecting greater than 50,000 square foot single tenancy was available to support an income approach calculation and an industry study to support the vacancy and capitalization rates that it adopted. The Complainant notes that although there are 2 small areas indicated in the owner's ARFI that appear to be leased that they are in fact related entities to the owner who occupies the rest of the building. The median rental rate from the 4 comparables is \$6.78 which the Complainant used to base a pro forma calculation of the subject. Using industry reports the Complainant applied a 5.00% vacancy and 8.00% capitalization rate to arrive at a value of \$7,108,898. The excess land was valued at \$2,709,000 to arrive at the requested value of \$9,817,898. The excess land value was arrived at by using the Respondent's standard formula contended by the Complainant to be \$1.05M for the 1st acre and \$300,000 for each additional acre. Utilizing the same vacancy and capitalization rates the Complainant did reverse calculations from the assessment with and without the excess land. The results were that with the land included the lease rate would be \$10.57 per square foot and without the land the rate would be \$8.00 per square foot. The Complainant contends the lease rate evidence from the comparables does not support those rates and that the rate of \$6.75 is the correct market rental rate. The Complainant referenced Appendices A and I in the reports entered as exhibit C2 to support its contention that the majority of the ASR of the Respondent's 152 sales in the sales comparison inventory are outside the accepted range of 1.05 to .95 and therefore are not reliable. Appendix I is the source of the Complainant's vacancy and capitalization information. The Complainant also produced 2 sales comparables of industrial warehouse properties that exhibited time adjusted sale prices of \$80.98 and \$75.26 per square foot to support its analysis of its requested value of \$80.16 per square foot.

Respondent's Position

The Respondent submitted that there is a solid basis for the change that has taken place in respect to the approach for the valuation of the industrial warehouse sector. The income approach has been discontinued in favour of the sales comparables approach because there is a diminishing amount of rental information available as a result of buyers acquiring this type of property for their own use. The prices being paid for such property are not reflective of them being based on rents such as those submitted by the Complainant. To do so would consistently produce assessments below market value whereas the Respondent's time adjusted sales comparables with low site coverage and excess land show values higher than the assessed value of the subject at \$125 per square foot. Based on those sale prices when a reverse calculation is made the rental rates would have been in the \$10.68 to \$15.83 range which are substantially above the value from the requested assessment analysis of \$6.75 per square foot and are consistent with subject analysis. The Respondent submitted that the market value determined from the sales comparables has rendered the value determined from the income approach to be well below the correct market value and unreliable.

The Respondent questioned the sales comparables cited by the Complainant to support its requested assessment value by noting that its analysis indicated that both sales were unreliable because of lease-back and vendor take back arrangements as part of the sales.

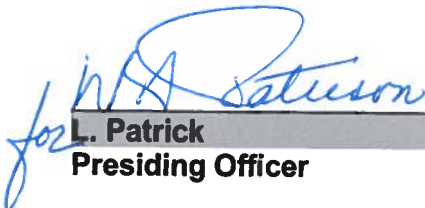
Board's Decision:

The assessment is confirmed.

Reasons:

The Board considered the evidence and analysis of that evidence as put forth by the Respondent in support of its contention that the income approach to the establishment of market value is not the best method of valuation. The market evidence of the sales comparables leads inevitably to the conclusion that sales of similar properties to the subject are at a considerable premium to those values evidenced by the Complainant's income analysis. Inasmuch as the Board accepts the sales comparison approach there is no need to comment upon the question of the source and reliability of the factors used in the Complainant's income approach analysis. There was not sufficient evidence of properties exhibiting the excess land factor in the Complainant's production contrasted to the evidence from the Respondent where sales involving excess land supported the assessed value. Although the issue of the configuration of a portion of the Complainant's site was raised in the Complaint Form it was not argued thus the Board did not address any influence that it might have had on the assessment. The Board finds that the Complainant did not provide convincing evidence upon which a change in the assessment can be based.

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


for L. Patrick
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.*