

**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, Section 460(4).

between:

Altus Group Limited, 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 Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	078074291
LOCATION ADDRESS:	803 24 Ave SE
HEARING NUMBER:	59722
ASSESSMENT:	\$17,820,000

This complaint was heard on 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. Weber *for Complainant*

Appeared on behalf of the Respondent:

- P. Sembrat *for Respondent*

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

There were no procedural or jurisdictional matters.

Property Description:

The subject is a 14.25 acre site containing 6 buildings ranging in size from 1,800 square feet to 96,118 square feet. The 2 oldest buildings are 1926 and 1928 and the 4 remaining buildings are 1967. The property is located at 803 24 Ave SE adjacent to Spiller Road on the west side of the property.

Issues:

1. Do the characteristics and physical condition of the subject property support the use of the income approach using actual factors in determining market value.

Complainant's Requested Value: \$14,300,000

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

The Respondent assessed the subject property using the sales comparable approach treating each of the 6 buildings as standalone subjects. The site coverage is 31% compared to the City of Calgary average of 29% thus no extra land assessment appears in the Assessment Explanation Supplement. The Complainant presented a detailed description of the eclectic collection of buildings on the subject site noting the wide range of ages, sizes, structures, building materials and locations submitting that the sales comparable approach of the entire site would be highly doubtful and that the sales comparable approach for each building individually indicates there is lack of sales of similar properties because of their unique qualities and characteristics. The Complainant developed a net operating income of \$1,144,382 and applied a capitalization rate of .08 to obtain the requested assessment of \$14,300,000. The rental rates vary from \$5.00 to \$23.00 per square foot and represent recent leasing activity for the wide range of uses from single user industrial tenants to fully renovated offices and a cafe. The actual vacant space is approximately 10% however the Complainant used 5% in its proforma development of the net operating income. The capitalization rate of 8% is the rate being applied by the Respondent for income approach properties in that sector. In support of its equity argument for the requested assessment equal to \$74.34 per square foot the Complainant

produced a number of Central industrial properties from Highfield, Burns, Fairview and Manchester districts. There is particular emphasis on the 4 Manchester comparables indicating assessments at \$74.34 per square foot for a range of sizes from 3,102 square feet to 144,737 square feet. In further support of the argument that the income approach is the best method of obtaining the value of properties with multiple buildings on one parcel the Complainant cited the CARB decisions in ARB0758/2010P and ARB0521/2010P where there is a lack of sales that enable a building by building analysis.

The Respondent submitted 6 industrial sales comparables, one for each of the 6 buildings on subject site. The closest match up occurred with the building described as number 4 on the assessment supplement being of 3,750 square feet, and of the same age. The only other comparables close in size to a subject building is building number 1 however the age discrepancy of a 1971 building with a high degree of finish offered against a 1928 vintage building with no finish indicated that these comparables were lacking in consistency. The other argument offered by the Respondent was the recent sale of the subject property evidenced by a transfer of land dated 8 March, 2010 between the previous owner in receivership and an arms length purchaser for \$1.00. The affidavit re value of land attached to the transfer indicates that the value of the land in the opinion of the deponent to be \$16,472,400. On further examination of the legal description it was determined that the transfer included an additional 2 acres of land not part of the subject thus it did not support the assessment. The Respondent did not take issue with the income factors used by the Complainant in arriving at the NOI used in the pro forma but contended that the property was not unique and that sales comparables were available for the individual buildings on the subject site such that the sales comparable approach was the best method of arriving at market value.

Board's Decision:

The 2010 assessment of the subject property is reduced to \$14,300,000.

The Board finds that the use of the income approach in circumstances of multiple buildings on one parcel is a valid approach when comparable sales are lacking. In this matter the comparables sales were few and not convincing. The large differential in the ages and condition of the properties made individual comparisons questionable and thus lacking. The use of the income approach thus became preferable and the question of the unique character of the subject then needed to be determined. The subject is in fact unusual in its collection of a wide variety of buildings most notably both in age and in size. What is a persuasive argument is the recent leasing activity and that there is a basis for relying upon the actual rents in establishing the gross revenue. The Respondent did not take objection to the other inputs nor to the use of the accepted capitalization rate of 8%. The recent sale of the property when the excess acreage is removed and valued in fact supports the requested assessed value and although post facto and thus of lesser weight does bear upon the Board's decision to reduce the assessment to the requested value of \$14,300,000.

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


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.*