

**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. Wood, PRESIDING OFFICER***

***I. Zacharopoulos, MEMBER***

***D. Steele, 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: 200117133**

**LOCATION ADDRESS: 303 58 AVENUE SE**

**HEARING NUMBER: 59451**

**ASSESSMENT: \$10,200,000**

This complaint was heard on 6th day of October, 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:

- Mr. R. Worthington

Appeared on behalf of the Respondent:

- Mr. J. Young

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

During the hearing, the Complainant attempted to submit a rebuttal package consisting of sales information in relation to the sales comparable relied upon by the Respondent located at 363 58 Avenue SE. The Respondent objected to this evidence being introduced as it was not disclosed in accordance with s. 8(2)(c) of *Matters Relating to Assessment Complaints* AR 310/2009 (MRAC). The Complainant indicated that he was on vacation at the time and therefore was not able to file the rebuttal evidence with the Respondent and the Board in advance of the hearing.

The Board ruled that the rebuttal constituted new evidence and would not be allowed because it was not disclosed in accordance with s. 8(2)(c) and therefore the Board must not hear it in accordance with s. 9(2) of MRAC. The Complainant vehemently objected to the Board's ruling, stating that (1) it was patently unfair and (2) it showed bias. The Complainant argued that the Board has allowed the Respondent to obtain information pertaining to comparables during several hearings and the Complainant did not object, therefore that same courtesy should be extended to the Complainant in this instance.

The Board does not agree. In the past, there have been occasions where the parties have used the same comparables but there were discrepancies with the assessment values. In those instances, the Board recessed, with the Complainant's agreement, to allow the Respondent to review the assessment records to clarify the discrepancies which oftentimes revealed contamination or exemption issues. If the Complainant had raised an objection in those instances, there may have been a different ruling from the Board.

In the case at hand, the Complainant was on vacation at the time the rebuttal was due and he failed to disclose it to the Respondent and the Board as required by the legislation. This is not a situation in which the Complainant is not aware of the process as he is an experienced tax agent who appears regularly before the Board. The Complainant should have known that the Respondent could object to his rebuttal evidence being introduced at such a late stage of the hearing process and therefore it was a risk that simply failed to materialize in his favour.

**Property Description:**

The subject property is a multi tenanted warehouse comprised of 121,375 sq ft of rentable building area, situated on 6.59 acre site in South Manchester. The warehouse was constructed in 1970. It has an 18% finish. The land use designation is I-G, Industrial General. The site coverage ratio is 39.97%.

**Issues: (as indicated on the complaint form)**

1. 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 capitalization rates; indicating an assessment market value of \$68 psf.
2. The aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties and should be \$68 psf.

**Complainant's Requested Value: \$8,470,000****Board's Decision in Respect of Each Matter or Issue:**

The Board notes that there were several statements on the appendix to the complaint form; however, it will only address those issues that were raised at the hearing. The values as indicated on the complaint form may have changed at the time of hearing.

- 1. 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 capitalization rates; indicating an assessment market value of \$68 psf.**

The Complainant submitted that the income approach is the preferred method of valuation for the subject property as the City failed to capture the fall of the market in the 2010 assessments. He stated the subject property would have to achieve a rental rate of \$7.08 psf with an 8% capitalization rate and 5% vacancy rate in order to be assessed at \$10,200,000 (Exhibit C1 page 22).

He indicated that the subject property has a median rental rate of \$5.88 psf. There is one tenant that occupies 54,685 sq ft with a long term lease that commenced in August 2003 for \$5.25 psf (expiring in 2015). The second tenant occupies 66,690 sq ft with a rental rate of \$6.25 psf that commenced in August 2008 (expiring in 2013) (Exhibit C1 pages 22- 24). These leases include "step ups" or increases in rent. The second tenant's rent, as referenced above, had increased to \$6.50 psf at the time of valuation.

He also submitted three lease comparables that indicate a median lease rate of \$6.75 psf for rentable building areas of 48,409- 49,528 sq ft all within a newer building (Exhibit C1 page 22). Based on the income generated in the subject property, the Complainant requested that the assessment be reduced to \$8,475,000 (Exhibit C1 page 25).

The Respondent submitted six sales comparables in support of the assessment which was based on the direct sales comparison approach. The sales comparables are multi tenant and single tenant warehouses, the majority of which are located in the NE quadrant. The buildings are 91,064–167,500 sq ft, built in 1971- 1998, with a site coverage of 26.41%- 57.21%. The time adjusted sales price ("TASP") ranged from \$81- \$147 psf, which the Respondent stated, supports the current assessment of the subject property at \$84.11 psf (Exhibit R1 page 56). The Respondent indicated that the comparable located at 363 58 Avenue SE, which is a neighbouring property to the subject, has a time adjusted sales price of \$147 psf.

In reviewing the Complainant's income approach to value, the Board notes that the Respondent did not contest the vacancy rate or the capitalization rate used by the Complainant but only the rental

rate. The Board reviewed the two lease rates in the subject property and placed less weight on the 2003 lease because it is a dated lease. If the median rental rate of \$6.75 psf is relied upon, as supported by the remaining lease in the subject building at \$6.50 psf, the Board finds that this would result in a nominal reduction in the assessment of 4.6% which is within an acceptable 5% deviation from the assessment. As such, the Board finds the Complainant's income approach to value for the subject property does not warrant a reduction in this instance.

In reviewing the Respondent's sales comparables, the Board finds the one located at 363 58 Avenue SE is superior due to its location and retail component (60% finish) than the subject property (Exhibit R1 page 56). There were also unanswered questions surrounding this sale, particularly, that it may have been part of a larger, portfolio sale. The Board also placed little weight on the comparable located at 5300 86 Avenue SE which the Respondent acknowledged may have been a telecommunications facility. The Board finds the Respondent's sales comparables exhibit a wide range of values which is perhaps a reflection of the different locations (SE and NE quadrants) and age of the comparables (four of which were built in the 1990's). However, given the Board's findings on the income approach, there was insufficient evidence presented by the Complainant to deviate from the direct sales comparison approach utilized by the Respondent in this instance.

**2. The aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties and should be \$68 psf.**

The Complainant submitted five equity comparables from the Central district in support of reducing the subject property's current assessed rate of \$84 to \$72 psf. These are single tenant warehouses, built in 1963- 1968, with net rentable areas of 125,635- 188,766 sq ft, and site coverage of 37%- 70%. These equity comparables have an assessed rate per square foot of \$65- \$74 psf for a median rate of \$72 psf which the Complainant based his request to reduce the subject property to \$8,770,000 (truncated) (Exhibit C1 pages 25 & 26). The Complainant disregarded the 6<sup>th</sup> equity comparable as it has access issues.

The Respondent submitted seven equity comparables from the Central region in support of the assessment at \$84 psf. The majority are single tenant warehouses, built in 1961-1975, with rentable building areas of 102,061- 150,468 sq ft and site coverage of 32%- 47%. The assessed rates ranged between \$82- \$91 psf (Exhibit R1 page 55).

The Board placed less weight on the Complainant's equity comparables because they have higher site coverage than the subject property (Exhibit C1 page 25). It was also unclear how the Complainant incorporated the land adjustment in his equity comparison calculation which is shown as a negative \$724,113 (Exhibit C1 page 26). The Board preferred the equity comparables as provided by the Respondent as they are more similar to the subject property (Exhibit R1 page 55). As such, the Board finds the Complainant failed to provide sufficient evidence to reduce the assessment based on equity.

**Board's Decision:**

The decision of the Board is to confirm the 2010 assessment for the subject property at \$10,200,000.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF NOVEMBER 2010.

  
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Lana J. Wood  
Presiding Officer

#### APPENDIX A

#### DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:

NO.	ITEM
Exhibit C1	Evidence Submission of the Complainant
Exhibit C2	Altus Binder
Exhibit C3	Assessment Review Board decisions & legislation excerpts
Exhibit R1	City of Calgary's Assessment Brief

*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.*