

**CITY OF CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

Between:

**ALTUS GROUP LTD.**, Complainant

and

**THE CITY OF CALGARY**, Respondent

Before:

**J. KRYSA**, Presiding Officer

**R. KODAK**, Member

**E. REUTHER**, Member

A hearing was convened on December 7, 2010 in Boardroom 1 at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

**ROLL NUMBER:** 068082908

**LOCATION ADDRESS:** 102 – 8<sup>th</sup> Avenue SW (Stephen Avenue)

**HEARING NUMBER:** 58754

**ASSESSMENT:** \$7,160,000

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

The subject property, located along Stephen Avenue, is a 13,179 square foot (sq.ft.) parcel of land improved with a 30,927 sq.ft. two storey retail structure, constructed in 1890 and designated as a registered historic resource known as Hudson's Block (aka The Royal Bank Building). The improvement is estimated to have an effective age of 38 years (1971) as a result of significant renovations, and is comprised of 11,292 sq.ft. (main floor), 11,915 sq.ft (upper floor), and 7,720 sq.ft. (basement) areas that are currently developed and occupied as an office.

**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

There were no procedural or jurisdictional matters raised by the parties during the course of the hearing.

**PART C: MATTERS / ISSUES**

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment amount
4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter number 3, an assessment amount. The Complainant set out 14 grounds for the complaint in Section 5 of the complaint form with a requested assessment of \$2,250,000; however, in the Complainant's evidence submission and argument only the following issues are indicated to be in dispute:

Issue 1: Market Rent Coefficient applied to Main Floor Area

Issue 2: Reallocation of Space

Issue 3: Equity

The Complainant requested the assessment be reduced to \$4,892,000.

**Issue 1: Market Rent Coefficient applied to Main Floor Area**

The Complainant argued that as the tenancy in the subject property is currently an office, the \$30.00 per sq.ft. market rent coefficient applied to the main floor should be reduced to \$15.00 per sq.ft.; a rate consistent with that applied to other downtown office buildings and also consistent with the rate applied to the upper floor and basement office areas within the subject property itself. The market rent coefficient applied to the upper floor and basement areas was not contested, nor were any of the other coefficients applied in the valuation of the property.

The Respondent conceded that the improvement may be currently used as an office, but argued that the valuation of the subject property should not be based on its current use as the majority of similar properties along Stephen Avenue are used for retail purposes and leased at rates approximating \$30.00 per sq.ft. Further, prior tenancies within the subject have been retail oriented, and the space could be redeveloped for a retail tenancy.

The Respondent further argued that whereas the Complainant's request is that the main floor should be assessed at a rate equal to that of the second floor and the basement, main floor areas typically achieve significantly higher market rents than upper floor and basement floor areas. In support of the argument and the market rent coefficients applied to the subject, the Respondent submitted a copy of the 2010 Assessment Request For Information (ARFI) form exhibiting that the main and upper floor areas are currently leased at a rate of \$24.50 per sq.ft., and a basement office area is currently leased at a rate of \$12.00 per sq.ft. [R1, pp. 20-23].

The Respondent also submitted a test of the assessment, established by capitalizing the current net income from the property, resulting in an estimate of market value of \$8,512,450, in contrast to the current assessment of \$7,160,000 [R1, p.25].

In support of the assessment, the Respondent further submitted a recent (2010) sale of a property located across the avenue from the subject property, exhibiting a sale price equating to \$382.00 per sq.ft. in contrast to the subject's assessment of \$231.51 per sq.ft. [R1, pp. 27-30].

### Decision – Issue 1

The Board finds that there was insufficient evidence presented to disturb the market rent coefficient applied to the main floor area of the subject property, and the assessment.

The Complainant did not provide any market evidence of leases along Stephen Avenue to demonstrate that \$15.00 per sq.ft. is an appropriate market rate for the main floor area. There was also no evidence provided to demonstrate that main floor areas, office or otherwise, would achieve similar lease rates to that of basement areas. Further, the Complainant's own ARFI evidence, also included in the Respondent's submission, indicated that the main floor office area was leased as of 2006 at a rate of \$24.00 per sq.ft. in contrast to the Complainant's request for a \$15.00 per sq.ft. market rent coefficient.

The Board notes that the Complainant's submission set out the legislation with respect to section 2 of *Matters Relating to Assessment and Taxation Regulation*, AR 220/2004 at C1, p.3.

#### s.2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Notwithstanding the current use as an office, the subject property's location in a prime retail area implies that the highest and best use of the main floor of the subject property would be a retail use, as are the vast majority of similar properties located along Stephen Avenue. In the absence of any evidence to the contrary, the Board accepts that the market rent coefficient of \$30.00 per sq.ft. reflects typical market conditions for properties similar to the subject property.

### Issue 2: Reallocation of Space

The Complainant argued that the assessed area of the subject property is incorrect. In support of that argument, the Complainant submitted a copy of the 2010 ARFI response, indicating that the improvement is comprised of 11,292 sq.ft. (main floor), 11,915 sq.ft (upper floor), and 7,720 sq.ft. (basement) leasable areas, totaling 30,927 sq.ft. in contrast to the assessed total area of the subject at 31,442 sq.ft. [C1, pp. 22-29].

The Respondent conceded that the improvement was incorrectly assessed by 515 sq.ft. and that the correct area of the improvement is 30,927 sq.ft., however, it was argued that the assessment should not be disturbed as the error was negligible when considered in context of the total assessed value. In support of that argument the Respondent provided a recalculation of the assessment reflective of the correct total area to illustrate that the assessment would be reduced from a value of \$7,160,000 to \$7,125,000; a difference of \$35,000 or 0.49%.

**Decision – Issue 2**

The Board accepts the agreed positions of the parties that the total area of the subject property is \$30,927 sq.ft., and finds that the resulting error in the assessed value is insignificant in relation to the total assessed value, and will therefore not be disturbed.

**Issue 3: Equity**

The Complainant argued that the assessment of the subject property is inequitable with other downtown office buildings that are assessed at a market rent coefficient of \$15.00 per sq.ft.

The Respondent argued that the market rent coefficient of \$30.00 per sq.ft. has been consistently applied to the main floor areas of all similar Stephen Avenue properties, and therefore the subject is fairly and equitably assessed in relation to competing properties. In support, the Respondent submitted a summary listing of 22 properties along Stephen Avenue to illustrate that the \$30.00 per sq.ft. market rent coefficient was equitably applied [R1, p35].

**Decision – Issue 3**

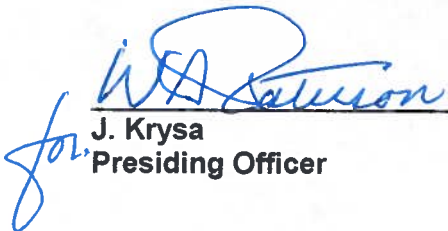
The Board finds that there was no evidence submitted by the Complainant to conclude that the assessment of the subject property is inequitable in relation to the assessments of similar properties.

The Board finds the Respondent's equity evidence to be compelling evidence that the main floor of the subject has been assessed in a consistent fashion with similar properties and therefore the required principles of mass appraisal have been fulfilled. Further, the assessment is not based on the contract rents in place, but rather, the typical market rent for properties similar to the subject along Stephen Avenue confirming that the assessment would also reflect the fee simple estate of the property as required by the legislation.

**PART D: FINAL DECISION**

The assessment is confirmed at \$7,160,000.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF December 2010.

  
J. Krysa  
Presiding Officer

**APPENDIX "A"**

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

| <b>NO.</b> | <b>ITEM</b>                                     |
|------------|---|
| 1.         | Exhibit C1<br>Evidence Submission - Complainant |
| 2.         | Exhibit C2<br>Rebuttal Evidence - Complainant   |
| 3.         | Exhibit R1<br>Evidence Submission - Respondent  |

**APPENDIX "B"**

## ORAL REPRESENTATIONS

| <b>PERSON APPEARING</b> | <b>CAPACITY</b>                   |
|-------------------------|-----------------------------------|
| 1. S. Sweeney-Cooper    | Representative of the Complainant |
| 2. E. Borisenko         | Representative of the Respondent  |

*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.*