

**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 9, 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:** 068081009

**LOCATION ADDRESS:** 220 – 8<sup>th</sup> Avenue SW (Stephen Avenue)

**HEARING NUMBER:** 58751

**ASSESSMENT:** \$1,610,000

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

The subject property, located along Stephen Avenue, is a 3,159 square foot (sq.ft.) parcel of land improved with a 6,585 sq.ft. two storey retail structure, constructed in 1907 and designated as a registered historic resource known as McFarlane & Northcott (aka Turner-Hicks) Block. The improvement is comprised of 2,819 sq.ft. (main floor), 1,472 sq.ft (upper floor), and 2,294 sq.ft. (basement) storage area. The main floor is currently occupied with a retail tenancy, and the upper floor with an office tenancy.

**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 13 grounds for the complaint in Section 5 of the complaint form with a requested assessment of \$1,100,000; however, in the Complainant's evidence submission and argument only the following issue is indicated to be in dispute:

**Issue:** The assessment of the subject property is not fair or equitable considering the assessed value and assessment classification of comparable properties. The main floor market rent coefficient should be reduced from \$30.00 per sq.ft. to \$20.00 per sq.ft., and the upper floor market rent coefficient should be corrected (increased) from \$20.00 per sq.ft. to \$22.00 per sq.ft. [C1, p.2].

The Complainant requested the assessment be reduced to \$1,287,000.

**Submissions**

The Complainant argued that the assessment of the subject property is inequitable in relation to similar downtown buildings as a result of the market rent coefficients applied to the main floor retail area, and the upper floor office area. There is no dispute with the market rent coefficient applied to the basement storage area, or any of the other coefficients applied in the preparation of the assessment.

In support of that argument, the Complainant submitted the assessment calculation worksheets for two comparable properties located at 102 8<sup>th</sup> Ave SW and 114 8<sup>th</sup> Ave SW, to demonstrate that the market rent coefficients applied to the subject property were inequitable.

The market rent coefficients evident in the subject property and comparables are set out below:

Area	Subject	102 8 <sup>th</sup> Ave SW	114 8 <sup>th</sup> Ave SW
Main Floor	\$30.00 per sq.ft.	\$30.00 per sq.ft.	\$20.00 per sq.ft.
Upper Floor	\$20.00 per sq.ft.	\$15.00 per sq.ft.	\$22.00 per sq.ft.
Basement (Office)	n/a	\$15.00 per sq.ft.	n/a
Basement (Storage)	\$8.00 per sq.ft.	\$6.00 per sq.ft.	\$8.00 per sq.ft.

The Complainant argued that the evidence above demonstrates that market rent coefficients have not been applied consistently or equitably amongst similar properties. Accordingly a market rent coefficient of \$20.00 per sq.ft. applied to the main floor area, and a market rent coefficient of \$22.00 applied to the upper floor area would result in an equitable assessment.

With respect to the Complainant's comparable located at 114 8<sup>th</sup> Avenue SW, the Respondent submitted that the main floor retail area was incorrectly classified as retail space "lower" and the corresponding \$20.00 market rent coefficient was in error. As a result a corrected assessment notice would be issued pursuant to section 305 of the Act.

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 excluding the error identified above, and therefore the subject is fairly and equitably assessed in relation to competing properties. In support of that argument 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 consistently and equitably applied [R1, p.25].

The Respondent further argued that whereas the Complainant's request is that the main floor should be assessed at a rate less than that applied to the upper floor; 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 rent roll indicating that the main floor area is currently leased at a rate of \$31.00 per sq.ft. in contrast to the assessed market rent coefficient of \$30.00 per sq.ft. The rent roll also indicated that the upper floors are currently leased at a rate of \$22.50 per sq.ft. in contrast to the assessed market rent coefficient of \$20.00 per sq.ft. [R1, p.19].

The Respondent also submitted a test of the assessment, established by capitalizing the current main and upper floor lease income from the property, and resulting in an estimate of market value of \$1,721,557 in contrast to the current assessment of \$1,610,000 [R1, p.20].

In support of the assessment, the Respondent further submitted a recent (2010) sale of a property located on Stephen Avenue in the vicinity of the subject property, exhibiting a sale price equating to \$382.00 per sq.ft. compared to the assessment of the subject at \$244.50 per sq.ft. [R1, pp. 22-24].

## **Decision**

The Board finds that there was insufficient evidence submitted by the Complainant to conclude that the assessment of the subject property is inequitable in relation to the assessments of similar properties.

With respect to the \$30.00 market rent coefficient applied to the main floor area, the Board is persuaded by the Respondent's equity evidence on page 25 of R1 that demonstrates the main floor of the subject has been assessed in a consistent fashion with other similar properties and therefore the required principles of mass appraisal have been fulfilled. Further, the Complainant's own comparable at 102 8<sup>th</sup> Avenue SW exhibits a \$30.00 market rent coefficient; demonstrating equity, rather than an inequity as suggested by the Complainant.

The Board accepts the Respondent's position that the assessment of the Complainant's comparable located at 114 8<sup>th</sup> Avenue SW, is in error. Consequently the Board will not revise an assessment that in all respects appears to be correct and equitable with the vast majority of similar properties, to create equity with one assessment that is incorrect.

The Board notes that although the contract rents in place support the market rent coefficients applied in the assessment, 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.

While the Board was concerned that there appeared to be a range of market rent coefficients applied to the upper floor areas from \$15.00 to \$22.00 per sq.ft. without explanation, the subject property at \$20.00 per sq.ft. falls within the range evident. Without any evidence from the Complainant to support the requested \$22.00 per sq.ft. market rent coefficient of one comparable, rather than the \$15.00 per sq.ft. market rent coefficient of the other, the Complainant's request to increase the market rent coefficient to \$22.00 per sq.ft. is denied.

#### **PART D: FINAL DECISION**

The assessment is confirmed at \$1,610,000.

Dated at the City of Calgary in the Province of Alberta, this 21 day of December, 2010

  
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J. Krysa  
Presiding Officer

**APPENDIX "A"**

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

<b>NO.</b>	<b>ITEM</b>
1.	Exhibit C1 Evidence Submission - Complainant
2.	Exhibit R1 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.*