

**COMPOSITE
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-26.1, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER

D. Julien, MEMBER

J. Mathias, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) 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 | 200439552 |
| LOCATION ADDRESS | 3600 BRENNER DR NW |
| HEARING NUMBER | 59009 |
| ASSESSMENT | \$29,910,000 |

This complaint was heard on 8th day of December, 2010 at the office of the Calgary Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *B. Neeson* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *B. Thompson* *Assessor, The City of Calgary*
- *A. Czechowskyj* *Assessor, The City of Calgary*

Procedural or Jurisdictional Matters:

No preliminary matters were raised. The merit hearing proceeded.

It should be noted that this Board had previously heard numerous appeals on multifamily rental properties (including various townhouse complexes) involving the same Complainant and various City Assessors. For reasons of efficiency and to avoid undue repetition, it was acknowledged that many of the arguments and comments would be cross-referenced.

Property Description:

The subject is a 240 unit, stacked townhouse complex located facing Shaganappi Trail and John Laurie Boulevard in the NW community of Brentwood Heights. Built in 1975, it consists of entirely two bedroom units. These are assessed with rental rates of \$850 per month. Additionally, a 3.00% vacancy allowance, 14.00 Gross Income Multiplier (GIM) and a 10% (negative) adjustment factor were applied to arrive at the current assessment. The 2010 assessment is \$29,910,000.

Issues:

While there are a number of inter-related grounds for complaint identified on the initial complaint form, the Complainant stated at the hearing that the sole remaining issue to be argued before the CARB is:

1. The assessed GIM is excessive in terms of market and equity

Complainant's Requested Value:

\$27,300,000* (Market) or \$25,640,000* (Equity)

*Request revised at the hearing

Based on EGI per City Assessment with:

| | | |
|--------|-----------|---|
| Market | 11.50 GIM | (100% - no adjustment) |
| Equity | 12.00 GIM | (90% adjustment applied =10.80 GIM net) |

Exhibits Presented

| | |
|----|--------------------------------|
| C1 | Complainant's evidence package |
| C2 | Complainant's rebuttal |
| R1 | Respondent's evidence package |

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

1. Commentary on Evidence and Testimony of the Parties

The Complainant's written evidence and oral testimony followed a consistent format to that presented in other complaints heard by this panel. The Board therefore has no further comment.

The Respondent's approach however, was curiously different from all previous appeals heard by the panel. Most puzzling was the Respondent's (R1, page 23) application of capitalization rates to a reconstructed 2008 Operating Income statement.

Firstly, the operating income over a 12 month period ending December 31, 2008 would reflect a different period – representative of a mid-point that is a year prior to the current valuation date of July 1, 2009. It had been previously acknowledged by various City Assessors, along with rental evidence supplied by the Complainant that rental rates were higher and vacancy was lower in 2008. Why then did the Respondent supply the Fall 2008 CMHC *Rental Market Report* when a more current and reflective report was available and indeed used in other Respondent evidence packages? The complainant's evidence package included the Fall 2009 CMHC *Rental Market Report* which illustrated a very different rental marketplace.

Secondly, R1 page 23 offered three alternative capitalization rates for consideration – 6.25%, 6.50% and 6.75%. The Board considers this evidence to be meaningless without a capitalization rate study supported by sufficient sales. In response to Board questioning, the Assessor replied that such a study existed in evidence on R1 page 32 – a list of 14 sales dating back to May 2000 from the Alberta Data Search website. This could not possibly be considered a capitalization rate study by any standard. Only two capitalization rates were shown, one for a May 2005 sale and the other for a *post-facto* December 2009 sale. The problem lies in the lack of similar rental townhouse sales, as illustrated by this list. Further evidence was provided on R1 pages 33 to 41 of nine very dated townhouse sales that occurred between May 2000 and June 2007. The Board finds this to be entirely irrelevant to the current valuation date.

It was suggested that any assessment must be tested using common sense, and the Respondent proposed a 'price per door' as a unit of comparison. Surely, common sense was abandoned when the Assessor began to speculate on the value of a small seven unit townhouse complex in High River, relative to the 240 unit subject located in NW Calgary. The Board entirely agrees that it is the final value, and not the individual components of the assessment that is under appeal. The Board looks to timely sales of similar properties, but such evidence was not shown to exist. Lacking sales, it becomes problematic to define "typical". Further, in view of different suite mixes, property locations and sizes of the complexes, any 'common sense test' becomes largely theoretical and based on conjecture. The Board's decision rests with the facts presented, preferably market-based. However, in the absence of market evidence, the Board defaults to an equitable assessment.

The Assessor wished to draw the Board's attention to pages 90 to 100 of R1, the 2010 *Assessment Request For Information* (ARFI) return. This included a 2008 Profit / Loss Statement and the subject rent roll dated April 30, 2009. Given the large number of units in the complex and 'move-in' dates stretching back to 2004, it was difficult for the Board to make any definitive judgement as to the current rental performance of the subject vis-a-vis the assessed 'typical' rent. The assessed rental rate was not raised by the Complainant as an issue. If however the Respondent wished to validate the assessment with a suggestion that the complex

is under assessed in terms of rental performance, it would behove the Assessor to extract the relevant leases in a chart to make a clear point for the Board.

2. GIM

Simply put, the GIM is a multiplier that brings a property's revenue stream (EGI) up to an appropriate market value based on recent arm's length sales of similar properties. At least, this would be the case in a 'perfect world'.

Taking the townhouse sub-set of the rental market in isolation, any GIM analysis becomes problematic relative to a July 1, 2009 valuation date. Both parties had advised the Board that there simply were no sales of 'investment grade' (over 40 unit) townhouses in 2008 or in the first half of 2009. Oral testimony had been given that there were two sales in 2008 and two in 2009 – all were less than eight units in size. This explained why neither party put forward any sales evidence for a townhouse GIM study, as there was nothing comparable.

Throughout the course of over 55 appeals of rental properties recently heard by this panel, the only evidence submitted for a GIM study from either party was for high-rise buildings. The Board therefore is aware that rental properties in the City are assessed for the current year with the following GIM: Beltline and Downtown high-rises 13.00, Suburban high-rise (and mixed use) 11.50, low-rise (and mixed use with townhouse) 11.00.

The Board is aware from testimony of the parties and evidence at various hearings that townhouses are assessed with the following GIM: 12.00, 13.00, 14.00 or 15.00 (note: GIMs for all 40+ unit townhouses are subsequently factored at 90%). In view of the dearth of sales, it would be difficult enough to support any one of these GIMs with any degree of certainty, let alone a hierarchy of four. Lacking sufficient sales, this multiplier is an 'educated guess' at best.

The factors which determine a rental property assessment are:

- A. Rent (net of any documented incentives)
- B. Vacancy
- C. GIM

A and B together determine the EGI. This evidence is easily documented and is typically presented to the Board – evidence of fact. The GIM however, is accepted with less certainty. Being a multiplier, the GIM presents opportunity for error in the final valuation. The Complainant argued for an equitable application of GIM for all rental townhouses. In the absence of market sales, an equitable value that could be accepted by both parties would seem a reasonable goal. The Board therefore considered a single GIM for the townhouse group to be appropriate in the absence of sufficient similar sales.

In the subject hearing, the property is assessed with a GIM of 14.00. Considering that (over 40 unit) townhouse GIMs are factored at 90%, a 14.00 GIM nets at 12.60. Except for pure townhouse complexes, other suburban rental properties are assessed in the 11.00 to 11.50 GIM range. The Board therefore supports (on an equitable basis) a single townhouse GIM of 13.00 (X 0.90 adjustment factor = 11.70 Net GIM). This provides a tight range in GIM for all types of suburban rental property (11.00, 11.50 and 11.70 net) and affirms the Complainant's contention that since the GIM is a manifestation of an owner's ROI (Return on Investment), it should be reasonably uniform given a property's EGI performance.

3. Conclusion

An equitable GIM of 13.00 (11.70 net after the 90% adjustment factor) was applied to the uncontested EGI of \$2,374,560. This resulted in the Board's decision, as follows:

Board's Decision:

The assessment is accordingly **reduced** to \$27,780,000.

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



C. J. GRIFFIN

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.*