

**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, Revised Statutes of Alberta 2000 (the Act).

between:

First Capital (Transcanada) Corporation (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER

This is an application to the Calgary Assessment Review Board in respect of a claim for costs following complaint hearings regarding property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	052221215 and 200184117
LOCATION ADDRESS:	1440 – 52 Street NE, Calgary AB
FILE NUMBER:	68947 and 68946
ASSESSMENT:	\$37,140,000 (Taxable) and \$1,950,000 (Tax Exempt)

This application was heard on the 3rd day of May, 2013 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 Applicant (The City of Calgary):

- *Brenda Thompson and Daniel Lidgren*

Appeared on behalf of the Respondent (Altus Group):

- *Robert Brazzell*

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

[1] At the outset of the hearing, the Presiding Officer asked the parties if they consented to the matter being heard by a single member panel. Both parties consented.

[2] The parties appeared before the Board twice with respect to the 2012 assessments of this property. The original taxable assessment was \$36,570,000. After the original assessment notice was received, a notice of complaint was filed and the CARB heard the complaint on August 1, 2012. The CARB rendered its decision on August 31, 2012, upholding the valuation performed by the assessor and thereby confirming the taxable assessment.

[3] On November 26, 2012, amended assessment notices for the taxable and tax exempt portions of the property were issued. There had been a change in the portion of the property that had been tax exempt. The revised taxable assessment was \$37,140,000. Complaints were filed with the Calgary Assessment Review Board on December 21, 2012 and a merit hearing was held on March 18, 2013.

[4] At the merit hearing, by way of preliminary application, the Respondent City of Calgary moved to have the CARB dismiss the complaint because it was no more than an attempt to get a rehearing of an issue that had been heard and decided in August 2012. Secondly, the Respondent requested that the CARB award costs (from Altus Group to The City of Calgary) for time and efforts spent on preparing for and attending the merit hearing.

[5] The CARB issued its order CARB 2426/2012-P on April 3, 2013. In that order, the CARB found that it did not have jurisdiction to grant a rehearing of a matter that had already been decided for the same tax year.

[6] With respect to costs, the order stated that if the Respondent (now the Applicant) sought costs, it should make formal written application, with reasons. Disclosure dates were set. Both parties provided written disclosure materials regarding the costs application. The hearing was set for this date, May 3, 2013 and it was heard by a single member CARB.

[7] Prior to any evidence or argument being heard, the Applicant City of Calgary informed the CARB that there had been discussions between representatives of the parties and late on May 2, 2013, a settlement agreement had been reached.

[8] The Applicant City of Calgary informed the CARB that it was withdrawing its costs application.

[9] The CARB accepted the oral withdrawal and closed the hearing.

DATED AT THE CITY OF CALGARY THIS 7th DAY OF May 2013.

W. Kipp
W. Kipp
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
BUT NOT CONSIDERED BY THE BOARD:**

NO. ITEM

1. Applicant Disclosure
2. Respondent Disclosure (2 parts)

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.*

For Internal Use

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Jurisdictional/Procedural		Other (Costs)	