

**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:

***Investors Group Trust Co. Ltd.
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***M. Vercillo, PRESIDING OFFICER
E. Bruton, MEMBER
D. Julien, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

HEARING NUMBER	ROLL NUMBER	LOCATION ADDRESS	ASSESSMENT
67850	048505309	1 2616 18 ST NE	\$975,500
67856	048505408	5 2616 18 ST NE	\$284,500
67858	048505507	6 2616 18 ST NE	\$254,000
67859	048505606	7 2616 18 ST NE	\$284,500
67860	048505705	8 2616 18 ST NE	\$284,500
67863	048505804	9 2616 18 ST NE	\$284,500
67864	048505903	10 2616 18 ST NE	\$284,500
67866	048506000	11 2616 18 ST NE	\$284,500
67868	048506109	12 2616 18 ST NE	\$284,500

This complaint was heard on 26th day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *C. Van Staden*

Appeared on behalf of the Respondent:

- *B. Brocklebank*
- *M. Lau*

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

The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The subject properties are a strata-titled condominium (condo) project that together encompasses a 35,536 square foot (SF) industrial warehouse located in the South Airways district of northeast (NE) Calgary. The warehouse was constructed in 1981 and is zoned as Industrial General (I-G). Each condo unit is assessed using the Direct Sales Comparison approach to value. According to the 2012 Industrial Condo Assessment Explanation Supplements, the properties are described as follows:

- Unit 1 has 23,656 SF of ground floor space of which 5,145 SF is warehouse space and 18,511 SF is finished area. This unit also has 11,013 SF of upper office space. The unit is assessed at a rate of approximately \$114 per SF of ground floor space. As a result of an existing lease to a tax exempt tenant within Unit 1, only the taxable portion of the non-exempt tenant, who occupies 8,529 SF forms part of this complaint.
- Units 5 thru 12 each have 1,485 SF of ground floor space all of which is finished area, with the exception of Unit 6 whose space is entirely classified as warehouse space. None of these units have any upper office space. These units are assessed at a rate of approximately \$192 per SF of ground floor space, again with the exception of Unit 6 which is assessed at a rate of approximately \$171 per SF because of its warehouse space.

Issues:

There were a number of matters or issues raised on the complaint form; however, as of the date of this hearing, the Complainant addressed the following issues:

- 1) The Income Approach to value is the best valuation method for the subject given its current use.
- 2) The Direct Sales Comparison approach to value supports a reduction to the current assessment.

Complainant's Requested Value:

LOCATION ADDRESS	NET RENTABLE AREA (SF)	ASSESSMENT
1 2616 18 ST NE	8,529	\$963,500
5 2616 18 ST NE	1,485	\$176,000
6 2616 18 ST NE	1,485	\$176,000
7 2616 18 ST NE	1,485	\$176,000
8 2616 18 ST NE	1,485	\$176,000
9 2616 18 ST NE	1,485	\$176,000
10 2616 18 ST NE	1,485	\$176,000
11 2616 18 ST NE	1,485	\$176,000
12 2616 18 ST NE	1,485	\$176,000

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

ISSUE 1: The Income Approach to value is best valuation method for the subject given its current use.

The Complainant provided a 124 page document entitled "2012 Property Tax Assessment Complaint" that was entered as "Exhibit C1" during the hearing. The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- Testimony that the subject property is fully owned by one owner and would most likely trade in the industrial investment market. The spaces are used by only two tenants who are not occupying those spaces as demised under the condo plan.
- During questioning from the CARB, the Complainant revealed that the condo project is a "condo in name only". That is to say that there is no condo association formed, no financial statements from the condo association exist and no reserve study has ever been commissioned. Therefore, the subject would not readily trade in the condominium market as its condition existed on December 31, 2011. It would more likely trade as a single multi-tenanted warehouse.
- Testimony that the annual nature of assessment valuation "tends to eliminate the speculative element from highest and best use analysis in an assessment valuation". The subject "property was being used as an investment property as at December 31, 2011" and "it is unreasonable to consider this will not continue into the future". Therefore, the Complainant presented an Income Approach valuation for the subject property using actual rents, although some supportive analysis of the market suggested to the Complainant that they were typical rents. Using a vacancy rate of 5%, a zero non-recoverable rate and a capitalization rate (cap rate) of 8%, the Complainant concluded the subject property should be assessed at a rate of \$113/SF for the larger Unit 1, while the smaller 8 units should be assessed at a rate of \$119/SF. This formed the basis of the aforementioned Complainant's requested value.

- A copy of last years decision from CARB 1488/2011-P was provided that indicated that the Income Approach to value was accepted as the best valuation for the subject property and as a result the assessment was reduced. The same basis of that decision is being requested for this year.

The Respondent provided a 328 page document entitled "Assessment Brief" that was entered as "Exhibit R1" during the hearing. The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- Testimony that all industrial warehouse properties are assessed using the Direct Sales Comparison approach to value. With some industry literature as support, the Respondent stated that it is considered the best approach in the industry when enough sales data is available. Many industrial warehouses are owner occupied and this fact would tend to compromise the Income Approach to value for industrial warehouses.
- That the Complainant's Income Approach to value for the subject mixed both actual and typical data and as a result does not produce good valuation results.
- That a 2011 Q2 Altus Insight study concluded that the cap rate used by the Complainant in his Income Approach is incorrect and that the use of 3rd party reports to generate cap rates should not be relied upon.
- That the subject property "is in fact an industrial condominium" and accordingly, "was valued on the Sales Comparison approach."
- A listing of 95 2011 CARB hearings where in each case Altus Group Limited requested the Income Approach to value as the best valuation method for industrial warehouses. In each case the CARB's rejected Altus's request and sided with the assessment of those properties using the Direct Sales Comparison Approach to value.

The CARB finds the following with respect to this issue:

- That it does not have a preference as to which valuation methodology is used. Notwithstanding a lack of valuation methodology preference, the CARB agrees with what was found in last years decision CARB 1488/2011-P: "...there may be circumstances...when one approach mirrors the motivations of the parties in the marketplace better than does the other approach." In this case, the subject although strata-titled, was not being used as per the condo plan. Its use most closely approximated that of an industrial investment property in the manner that a single multi-tenanted warehouse would be used. The Income Approach would most closely mirror that use.

ISSUE 2: The Direct Sales Comparison approach to value supports a reduction to the current assessment.

The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- Eleven condo industrial sales comparables were provided in a similar neighborhood to the subject within the NE quadrant of Calgary. The comparables varied in size from 3,000 SF to 10,667 SF with bay or unit average sizes varying from 2,133 to 5,550 SF. Sales registration dates varied from July, 2009 to June, 2011. The sales rates of the comparables varied from \$101/SF to \$173/SF. A median average sales rate of \$154/SF, with a median average sales rate for the Airways and McCall neighborhoods of \$146/SF was calculated. Restricting the analysis to only the 2011 sales, the Complainant calculated a 2011 sales rate of \$125/SF. Using the \$125/SF sales rate, the Complainant

calculated an alternative requested assessment of:

- Unit 1: 8,529 SF @ \$125/SF equals \$1,066,125; and
- Units 5 thru 12: 1,485 SF @ \$125/SF equals \$185,625 each.
- Three non-condo warehouse sales comparables were provided in a similar neighborhood to the subject within the NE quadrant of Calgary. The comparables varied in size from 35,200 SF to 48,660 SF. Sales registration dates varied from February, 2009 to June, 2011. The assessment rates for these comparables varied from \$91/SF to \$104/SF. Using what the Complainant considered to be the best comparable to the subject and its assessment rate of \$104/SF, the Complainant calculated an alternative requested assessment of:
 - Unit 1: 8,529 SF @ \$104/SF equals \$887,000; and
 - Units 5 thru 12: 1,485 SF @ \$104/SF equals \$154,400 each.

The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- Ten condo industrial sales comparables were provided. Although they were not in the same neighborhood as the subject, eight of the comparables were in the same NE quadrant of Calgary. The comparables varied in size from 1,250 SF to 1,737 SF with a median size of 1,639 SF. Sales registration dates varied from July, 2009 to March, 2011. The sales rates of the comparables varied from \$184/SF to \$231/SF, with a median of \$184/SF. The Respondent concluded that based on these sales comparables the subject property is equitable assessed.
- Testimony that the Complainants condo industrial sales comparables are either much larger than the subject's smaller condo units, or, as in the case of the non-condo warehouse sales comparables, very much larger and not strata-titled like the subject.

The CARB finds the following with respect to this issue:

- That in this case and as found under Issue 1, the subject although strata-titled, was not being used as per the condo plan. Its use most closely approximated that of an industrial investment property in the manner that a single multi-tenanted warehouse would be used. Because of its unique nature and use, the Income Approach is the preferred approach in establishing fair market value of these properties. Accordingly, in this instance, condo sales comparables used by both parties are viewed as a less accurate reflection of market value.

Board's Decision:

The complaint is accepted and the assessments are revised as follows:

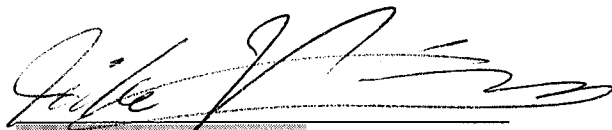
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The CARB provides the following reasons for the decision:

- The subject property, although strata-titled, does not appear to be in direct competition in the marketplace with other strata-titled industrial warehouse properties. The condo units are collectively owned by one owner, and as such, it has been deemed unnecessary to form a condo association, provide association financial statements or even conduct a reserve study. Moreover, none of the tenancies occupy spaces as per the condo plan and no demising walls exist that divide up space as per the condo plan. There are significant roadblocks that would have to be overcome in terms of time and expense, that would allow the owner to sell even one condo unit. Therefore, it is difficult for the CARB to rely on sales comparables of industrial condo units.
- Although there is generally no preference for assessment valuation methodologies, as was found in last year's decision CARB 1488/2011-P: "...there may be circumstances...when one approach mirrors the motivations of the parties in the marketplace better than does the other approach." In this case, the subject although strata-titled, was not being used as per the condo plan. Its use mostly approximated that of an industrial investment property like a single multi-tenanted warehouse would be used. In the absence of better evidence, the Income Approach, in spite of the flaws pointed out by the Respondent, appears to most closely and accurately reflect that use. Therefore, the CARB accepts the Income Approach valuation of the Complainant.

DATED AT THE CITY OF CALGARY THIS 19 DAY OF JULY 2012.



Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
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1. C1
2. R1

Complainant Disclosure
Respondent Disclosure

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 MGB Office Only)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Warehouse	Multi-unit ownership	Sales Approach	Improvement Calculation