

**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:**

***Harmin Holdings Ltd/Ulster Developments Ltd (as represented by Altus Group Limited),  
COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***B. Horrocks, PRESIDING OFFICER  
D. Pollard, MEMBER  
B. Bickford, MEMBER***

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

<b>ROLL NUMBER:</b>	<b>097004303</b>
<b>LOCATION ADDRESS:</b>	<b>4451 58 AV SE</b>
<b>HEARING NUMBER:</b>	<b>68096</b>
<b>ASSESSMENT:</b>	<b>\$3,020,000</b>

This complaint was heard on the 19th day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- Mr. J. Smiley (Altus Group Limited)

Appeared on behalf of the Respondent:

- Mr. I. Baigent (City of Calgary)
- Mr. B. Brocklebank observer
- Mr. L. Cheng observer

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

There were no concerns with the Board as constituted.

There were no preliminary matters, the merit hearing proceeded.

At the outset, the parties agreed that all evidence and argument with respect to "Equity Only" from Hearing #67134 would be carried forward and cross referenced.

**Property Description:**

The subject property is a 1.831 acre site located in the Foothills Industrial Park in SE Calgary. The site is multi improved with two warehouses of significantly diverse size. One warehouse, constructed in 1976, is 5,000 square feet (SF), has 18% Finish and 30.98% Site Coverage and has an Assessable Building Area of 5,846 SF. It is assessed at the rate of \$165.83/SF. The second warehouse, constructed in 1978, is 19,712 SF, has 20% finish and 30.98% Site Coverage and has an Assessable Building Area of 21,044 SF. It is assessed at the rate of \$97.45/SF. The assessment is prepared using the Sales Comparison Approach to Value.

**Issues:**

The Assessment Review Board Complaint Form contained 15 Grounds for Complaint. The Complainant advised there were two outstanding issues, namely: (1) The mezzanine space of the subject property has been incorrectly valued, and (2) The aggregate assessment per square foot applied to the subject property is inequitable with the assessments of other similar and competing properties and should be \$97 PSF.

**Complainant's Requested Value:** \$2,420,000 (Complaint Form)  
\$2,430,000 (Hearing)

**Board's Decision in Respect of Each Matter or Issue:****Issue** What is the correct Assessable Building Area?

The Complainant's Disclosure is labelled C-1.

The Complainant, at page 31, provided the Assessment Request for Information (ARFI) noting that the space identified as U 4451 58 AV SE (Space ID 7) containing 846 SF had been crossed out by the owner's representative, to indicate the space was not rentable nor assessable. As a result, the Assessable Building Area should be 5,000 SF for the smaller building.

The Complainant, at page 34, provided a diagram from the ARFI, noting there is no office area shown for Building 1 (the larger building) and submitted the Assessable Building Area should therefore be 20,000 SF.

The Complainant concluded the Assessable Building Area for the subject should be 25,000 SF. In response to a question from the Respondent, the Complainant said he had not inspected the property.

The Respondent's Disclosure is labelled R-1.

The Respondent testified that an inspection of all bays inside the larger building and the office of the smaller building had taken place on June 4, 2012 and asserted that the Assessable Building Areas, shown on the Assessment Explanation Supplement on page 15, are correct.

The Board finds the testimony provided by the Respondent more compelling. The Assessable Building Areas are 5,846 SF and 21,044 SF respectively.

**Issue** Is the aggregate assessment per square foot applied to the property inequitable?

The Complainant submitted the Rate per SF applied to the larger building (\$97.45) is reasonable and should be applied to both buildings. The Complainant argued the subject property is being penalized for being made up of more than one building, that the property remains single-titled, and is unlikely to be a good candidate for subdivision.

The Complainant, at page 11, provided a chart titled Industrial Equity Comparables, 25,000 to 30,000 sq. ft., Foothills Industrial, IWM. The list contains 16 purported equity comparables with assessments per square foot (Asmt/SF) ranging from \$82 to \$100. The Complainant concludes the requested rate of \$97/SF is reasonable in comparison.

The Respondent, at page 17, provided a 2012 Industrial Sales Chart which contains information for both small and large building sales. The Respondent noted the time adjusted sales prices per square foot (TASP/SF) for the 6 smaller buildings which ranged from \$165.98 to \$228.19 support the assessed rate of \$165.83 after adjustments are made for year of construction (AYOC), Finish % and Site Coverage. Similarly, the remaining sales for the larger buildings support the rate applied of \$97.45.

The Respondent, at page 19, provided a 2012 Industrial Equity Chart which contained 4 multi improved properties, 3 in the Foothills Industrial Park and 1 in Forest Lawn, noting the larger building improvements are all assessed at a lower rate than the smaller building improvements.

The Respondent submitted that in addition to adjustments for key factors, components and variables, a negative Multi building Coefficient is applied to all properties which contain more than one building.

The Respondent, at page 21, provided a 2012 Industrial Equity Chart which contains 7 equity comparables, all single improved and all in the Foothills Industrial Park with Rate per SF ranging from \$154.15 to \$188.98. The Respondent noted the rates have not had a negative multi building coefficient applied, but they are supportive of the \$165.83/SF rate applied to the smaller improvement on the subject property.

The Respondent argued that the Complainant has not provided any market evidence to establish a range of market values. The respondent cited **Bramalea Ltd. v. British Columbia(Assessor for Area 9 (Vancouver) (B.C.C.A.), [1990] B.C.J. No.2730 and Bentall Retail Services et al v Assessor of Area #09-Vancouver, 2006 BCSC 424** in support of his argument that equity alone is insufficient to alter an assessment.

The Complainant, thru rebuttal (C-2), submits the City's Comparables bear little or no resemblance to the subject. The Respondent noted the rebuttal contains a Chart entitled City's Industrial Sales Comparables which contains new evidence and should not be admitted. The Board agreed.

The Complainant cited the following case law in support of its argument:

**Jonas v Gilbert [1881] S.C.J. No.5**

**Assessor for Area 09 (Vancouver) v Bramalea Ltd [1990] C.A.V. 00992**

**Bentall Retail Services et al v Assessor of Area 09 – Vancouver**

**Dutchcad Bil Investments Ltd et al v Assessor of Area 19- Kelowna**

The Board finds no market evidence from the Complainant.

In addition, the Board finds there is insufficient evidence from the Complainant, to prove the assessment for the subject, does not fall within an equitable range of market values, as of the valuation date.

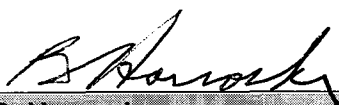
**Board's Decision:**

The 2012 assessment is confirmed at \$3,020,000.

**Reasons:**

There is no market evidence from the Complainant to establish a range of market values.

DATED AT THE CITY OF CALGARY THIS 12<sup>th</sup> DAY OF July 2012.



**B. Horrocks**  
Presiding Officer

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. R1	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 Administrative Use**

<b>Subject</b>	<b>Property type</b>	<b>Property Sub-type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Warehouse	Multi-improved	Sales Approach	Equity Only