

**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:

35th Street Properties Inc. (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:

ROLL NUMBER:	115056608
LOCATION ADDRESS:	7803 35 ST SE
HEARING NUMBER:	67880
ASSESSMENT:	\$11,780,000

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)

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 10.21 acre parcel located in the Foothills Industrial Park in SE Calgary. The site is improved with a 178,362 square foot (SF) multi-bay warehouse that was constructed in 1977. The Finish is 5%, the Site Coverage is 40.09% and the Assessable Building Area is 179,418 SF. The subject is assessed at \$65.70/SF utilizing the Sales Comparison approach to value.

Issues:

The Assessment Review Board Complaint form contained 13 grounds for Complaint. The Complainant advised there was only one outstanding issue, namely: "The aggregate assessment per square foot applied to the subject property is inequitable with assessments of other similar and competing properties and should be \$60 psf."

Complainant's Requested Value: \$10,760,000 (Complaint Form)
\$10,760,000 (Hearing)

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

Issue Is the aggregate assessment of the subject property inequitable with assessments of similar and competing properties?

The Complainant's Disclosure is labelled C-1.

The Complainant submitted that the improvement on site is situated so as to make maximum utility of the abnormally shaped parcel. As such, the property has a lower site coverage than other comparable properties which enjoy a standard rectangular or near rectangular shape. The property has been penalized under the City's model because of this atypical alignment of the land.

The Complainant, at page 10, provided a Chart with no title which contained 3 purported equity comparables. Two of the comparables were larger than the subject and one was smaller. All of the comparables had larger site coverage than the subject and all were assessed at the rate of \$60/SF. The Complainant noted the comparable at 7503 35 ST SE was immediately to the North of the subject. The Complainant argued that with comparable and competing properties assessed on the basis of \$60/SF, the subject should be likewise assessed.

The Respondent's Disclosure is labelled R-1.

The Respondent, at page 14, provided a 2012 Industrial Sales Chart which contained 4 sales of similar sized properties with time adjusted sales prices per square foot (TASP/SF) ranging from \$62.95 to \$100.02, noting the subject is assessed at \$65.70.

The Respondent, at page 20, provided a 2012 Industrial Equity Chart which contained 7 equity comparables with assessment rates per square foot ranging from \$61.91 to \$84.95, noting the subject is assessed at the rate of \$65.70 per SF. The Respondent noted that the two comparables with the highest rate per SF had much lower site coverage than the subject.

The Respondent, at page 29, provided a RealNet report of a sale of the subject on July 27, 2011 for \$12,750,000 (\$68/SF) acknowledging that the report was a draft and the sale was post facto.

The Respondent, at page 33, provided the Transfer of Land dated July 13, 2011 to verify that the sale had actually taken place and that the sale was for \$12,750,000.

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 to support a change to the assessment. In addition, the sale of the subject property, in the assessment year, supports the assessment as of the valuation date.

Board's Decision:

The 2012 assessment is confirmed at \$11,780,000.

Reasons:

There is no market evidence from the Complainant to indicate that the assessment is not within a reasonable range of market value.

DATED AT THE CITY OF CALGARY THIS 10th DAY OF July 2012.



B. Horrocks
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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

Subject	Property type	Property Sub-type	Issue	Sub-Issue
CARB	warehouse	Multi-bay	Sales Approach	Equity Only

