

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

1062788 Alberta Ltd., (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. B. Hudson, PRESIDING OFFICER

D. Julien, MEMBER

J. Kerrison, MEMBER

These are complaints 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:

**ROLL NUMBERS: 200203990, 200204006, 200204014, 200204022, 200204030, and
200204048**

LOCATION ADDRESSES: 1463, 1459, 1455, 1451, 1445, and 1441 17 AV SW

HEARING NUMBERS: 67700, 67703, 67707, 67709, 67714, and 67717

ASSESSMENTS: \$678,000, \$609,500, \$598,000, \$609,500, \$468,000, and \$402,500

These complaints were heard on the 18th and 20th days of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *B. Neeson*

Appeared on behalf of the Respondent:

- *A. Czechowskyj*

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

The Board decided to proceed based on a single presentation of the evidence and argument covering the complaints for all of the subject properties, as agreed by the parties. The Complainant advised that notwithstanding their concern with respect to the lack of information provided by the Respondent in respect to requests filed under Section 299 and/or 300 of the Municipal Government Act (MGA); the issue would not be pursued in this hearing.

Property Description and Background:

The subject properties are commercial retail condominium units, ranging in size from 1316 to 2217 square feet (sf.). They are located on the ground level of the 60 residential unit Bella Vista Condominium complex, in the 1400 block of 17 AV SW. The land use designation is Commercial – Corridor 1. The current assessments have been prepared using the direct sales comparison approach to a value of \$306 per square foot (psf.), for a total assessed value of \$3,365,500.

The subject properties have not completely recovered from the extensive water damage issues documented in a report prepared for the Bella Vista Condominium Association by the firm of Lee and de Ridder Architects in April of 2010. (page 141 to 152 of Exhibit C1). The report identified a total "cost to cure" estimate of \$1,083,550, to repair physical damage to the subject properties.

CARB 2287/2011-P directed that the 2011 assessments of these same subject properties, be reduced by the "cost to cure" estimate noted above, on a one time basis, as deferred maintenance (page 76 to 80 in Exhibit R1). This resulted in a reduction to approximately \$300 psf. from the original 2011 assessed rate of approximately \$400 psf. for each of the subject properties.

A March 2012 update of the report prepared by the same firm, and emails from the tenants to the property owners; confirm that some repairs were still outstanding in the subject retail units, (page 154 to 196 of Exhibit C1).

Issues:

1. Do the current assessment values recognize the atypical physical condition of the properties, or should the "cost to cure" reduction applied in 2011 be applied again in 2012?
2. Does the capitalized income approach capture a more appropriate market value estimate than the direct sales comparison approach used to prepare the current assessments?

Complainant's Requested Value:

The total assessment value requested is \$2,281,950, based on the "cost to cure" reduction. The total assessment value requested is \$2,354,682, based on the capitalized income approach to value estimate.

Board's Findings in Respect of the Issues:

The Board finds that the current assessment values recognize the atypical physical condition of the properties.

The Board further finds that the capitalized income approach does not capture a more appropriate estimate of market value than the direct sales approach.

1. Do the current assessment values recognize the atypical physical condition of the properties, or should the "cost to cure" reduction applied in 2011 be applied again in 2012?

The Complainant argued that the total 2012 assessment amount should be reduced by deducting the \$1,083,550 "cost to cure", from the total current assessment amount of \$3,365,500. This would reduce the total assessment amount to \$2,291,900.

The Respondent argued that the evidence does not support a repeat in 2012, of the total 2011 "cost to cure" reduction directed on a one-time basis in 2011. The March 2012 updated report evidence and photographs, as well as the email correspondence between the tenants and the owners, is evidence some minor repairs are still outstanding. However it is also clear evidence that the major repairs have been completed. There is no supporting evidence that the "cost to cure" the outstanding minor repairs would require anything approaching \$1,083,550.

The Board was satisfied that the current assessments based on a rate of \$306 psf., which represents a 10% discount from the typical assessed rate of \$340; is recognition of the atypical physical condition of the subject properties.

- 2 Does the capitalized income approach capture a more appropriate market value estimate than the direct sales comparison approach used to prepare the current assessments?

The Complainant prepared a capitalized income approach to total assessment value estimate for the subject properties. The atypical valuation factors applied included reported average rent of \$21psf. and vacancy of 16.6%. This alternative approach would reduce the total assessment amount to \$2,354,600(rounded).

The Respondent argued that because the Complainant used an average of reported rent and elevated vacancy their income approach to market value estimate was not credible. In addition, there was no comparative market evidence submitted by the Complainant, to conclude that the income approach produced a more appropriate estimate of market value than the sales approach.

The Respondent submitted sales evidence in support of the assessed rate of \$340 psf. applied to typical commercial retail condo units (page 44 of Exhibit R1)

In rebuttal, the Complainant pointed out that most of the Respondent sale comparables were high quality commercial office rather than average quality retail condos, and that the median of the sale prices was \$381psf (see page 3 of Exhibit C2), not the assessed rate of \$340 psf.

The weak sales evidence from the Respondent was noted. However, the Board concluded that the Complainant had not met the onus to prove that using the capitalized income approach produced a more appropriate estimate of market value for the subject properties, than the direct sales approach.

Board's Decision: The current assessments as listed on page 1 of this decision are confirmed.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF July 2012.



T. B. Hudson
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. 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.*

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<i>Decision No. 0821/2012-P</i>		<i>Roll No. Multiple</i>		
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Condo	Physical Condition	Income vs Sales