

**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:

***Canada Lands Company CLC Limited (as represented by Altus Group Limited),
COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***J. Dawson, PRESIDING OFFICER
D. Morice, MEMBER
R. Deschaine, MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board [CARB] 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:	067096305
LOCATION ADDRESS:	522 12 Avenue SW
LEGAL DESCRIPTION:	Plan A1; Block 70; Lots 22-24
HEARING NUMBER:	67988
ASSESSMENT:	\$ 6,690,000

- [1] This complaint was heard on the 9th day of July, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 1.
- [2] Appeared on behalf of the Complainant:
- D. Genereux Agent, Altus Group Limited
- [3] Appeared on behalf of the Respondent:
- L. Wong Assessor, City of Calgary

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

- [4] No objections in respect of procedural or jurisdictional matters were raised.

SECTION B: Issues of Merit

Property Description:

- [5] Constructed in 1965, the subject – 522 12 Avenue SW, is a three storey office building located just south of the downtown commonly referred to the Beltline.
- [6] The Respondent prepared the assessment showing 41,489 square feet of office space rated as a 'B' quality, 7,679 square feet of storage space, and 33 assessable parking stalls. The site has an area of 34,137 square feet.

Matters and Issues:

- [7] The Complainant identified two matters on the complaint form:
- #3. *an assessment amount*
 - #4. *an assessment class*
- [8] Following the hearing, the Board met and discerned that this is the only relevant question which needed to be answered within this decision:
1. *Is the assessment correct and has it been assessed in a fair and equitable manner?*

Complainant's Requested Value:

- \$5,100,000 on complaint form
- \$4,320,000 in disclosure document
- \$4,320,000 at hearing confirmed as request

Board's Decision in Respect of Each Matter or Issue:***Matter #3 - an assessment amount*****Question 1 *Is the assessment correct and has it been assessed in a fair and equitable manner?***

- [9] The Complainant reviewed their Disclosure Document (C1) and Addenda (C2) in an effort to show the Board the inequitable manner in which the assessment was prepared for the subject property.
- [10] The Complainant outlined the inequity that existed within the subject property, suggesting that it is over assessed, and needed to be adjusted to 65% of the current assessment. The argument was that, of six comparable properties reviewed, the assessment to sales ratio (ASR) ranged from a low of 50% to a high of 85%.
- [11] The Complainant provided these six comparables to advance their case:
- Connaught Centre – 1207 11 Avenue SW. Built in 1980, this property is graded as a 'B' quality and has a 2012 assessment of \$14,920,000 versus a January 18, 2012 sale amount of \$29,850,000. The resulting ASR is .50.
 - Dominion Place – 906 12 Avenue SW. Built in 1980, this property is graded as a 'B' quality and has a 2012 assessment of \$25,407,239 versus a December 29, 2011 sale amount of \$30,000,000. The resulting ASR is .85.
 - Alberta Place – 1520 4 Street SW. Built in 1974, this property is graded as a 'B' quality and has a 2012 assessment of \$17,095,000 versus a December 1, 2011 sale amount of \$28,800,000. The resulting ASR is .59.
 - Western Canadian Graphics – 901 10 Avenue SW. Built in 1955, this property is graded as a 'C' quality and has a 2012 assessment of \$4,770,000 versus a September 19, 2011 sale amount of \$7,300,000. The resulting ASR is .65.
 - RBC Data Centre – 1313 10 Avenue SW. Built in 1978, this property is graded as a 'B' quality and has a 2012 assessment of \$8,980,000 versus a May 21, 2009 sale of \$15,000,000. The resulting ASR is .60.
 - High Street House – 933 17 Avenue SE. Built in 1979, this property is graded as a 'B' quality and has a 2012 assessment of \$11,050,000 versus an April 15, 2009 sale of \$14,500,000. The resulting ASR is .76.
- [12] The Complainant reviewed calculations performed to demonstrate to the Board that, in order to reflect an equitable assessment for the subject, the \$6,690,000 assessment must be adjusted downward by 35% to \$4,320,000.
- [13] In order to arrive at the requested \$4,320,000 value, the Complainant suggests that the capitalization rate (cap rate) must be adjusted to 12.0%.
- [14] The Complainant provided an Addenda document (C2) wherein contained argument with excerpts of case law, board decisions, legislation and regulation. Among the information are many references to fair and equitable treatment of the taxpayer. In addition the Complainant stressed the need to provide three to six comparables to the subject.

- [15] The Respondent presented their Disclosure Document (R1) asserting that the subject assessment is correct. The cap rate at 7.75% is the same as other assessed Beltline, grade 'B' office properties. Third party reports, while not used to create the cap rate, support the assessed 7.75%. The Respondent asserted that no evidence has been provided to validate the 12.0% request.
- [16] The Respondent provided one comparable sale (a) and dismissed the six comparables (b – g) from the Complainant for various reasons indicated below:
- a. Eleven Eleven Building – 1111 11 Avenue SW. Built in 1979, this property is graded as a 'B' quality and has a 2012 assessment of \$9,120,000* versus an April 1, 2011 sale amount of \$9,300,000. The resulting ASR is 98%. Property is considered to be a valid comparable. *The \$9,120,000 value was calculated using information provided on page 13 of R1.
 - b. Connaught Centre – 1207 11 Avenue SW is not considered to be a valid comparable because the sale is *post facto*, occurring nearly seven months after valuation date. In addition, this property has; office recreational and office retail space which makes it difficult to use as a direct comparison.
 - c. Dominion Place – 906 12 Avenue SW is not considered to be a valid comparable because the sale is *post facto*, occurring six months after valuation date. In addition, this property has; bank, restaurant, office recreational and office retail space which makes it difficult to use as a direct comparison.
 - d. Alberta Place – 1520 4 Street SW is not considered to be a valid comparable because sale is *post facto*, occurring five months after valuation date. In addition, this property has office recreational and office retail space which makes it difficult to use as a direct comparison.
 - e. Western Canadian Graphics – 901 10 Avenue SW is not considered to be a valid comparable because the graded quality is 'C' therefore using different input values to calculate assessment.
 - f. RBC Data Centre – 1313 10 Avenue SW is not considered to be a valid comparable because the sale occurred in May 2009 and many values have changed, including: market rent was \$34 in May 2009 and \$13 on valuation date.
 - g. High Street House – 933 17 Avenue SE is not considered to be a valid comparable because the sale occurred in January 2009 and many values have changed, including: market rent was \$21 in January 2009 and \$13 on valuation date. In addition, this property has restaurant and office retail space which makes it difficult to use as a direct comparison.
- [17] The Board discourages the use *post facto* evidence. The valuation date is July 1 of any given year with the condition date being December 31 of the same year. There is only one sale presented that falls within the valuation period, however, insufficient information is provided to determine the level of comparability.
- [18] **The Board is unable to rely on any of the comparables and finds that the Complainant has not established a *prima facie* case.**


Matter #4 - an assessment class

- [19] The assessment classes are prescribed through the Act; "297(1) When preparing an assessment of property, the assessor must assign one or more of the following assessment classes to the property: (a) class 1 residential; (b) class 2 non residential; (c) class 3 farm land; (d) class 4 machinery and equipment."
- [20] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

Board's Decision:

- [21] After considering all the evidence and argument before the Board, the complaint is denied, and the assessment is confirmed at \$6,690,000.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF August 2012.


J. Dawson
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure – 91 pages
2. C2	Complainant Disclosure: Addenda – 40 pages
3. R1	Respondent Disclosure – 53 pages

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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Low Rise	Income Approach	Capitalization Rate