

**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:

MacBain Properties Ltd., COMPLAINANT (as represented by Altus Group Limited)

and

***The City of Calgary,
RESPONDENT***

before:

J. Dawson, PRESIDING OFFICER

S. Rourke, MEMBER

A. Zindler, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	137041406
LOCATION ADDRESS:	12222 – 44 ST SE
HEARING NUMBER:	61212
ASSESSMENT:	\$2,840,000

This complaint was heard on 28th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *J. Weber Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

- *C. Lee Assessor, The City of Calgary*
- *J. Young Assessor, The City of Calgary*

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

- 1) An objection was raised during the hearing for Roll Number 117005207, Decision Number CARB 1108/2011-P. Mr. J. Young raised the objection on behalf of the Respondent regarding the inclusion of certain pages of the Rebuttal Document C5 as it included new evidence which is contrary to the purpose of rebuttal:
 - a. Page 6; upon the objection being raised the Complainant agreed to the objection and the page was removed from the record.
 - b. Pages 23–28 and supporting pages; an objection was raised by the Respondent that the right columns labelled "Market NOI" was new information. Complainant responded by indicating that information is not being relied on for the requested value and clarifies only information provided by the Respondent. The board recessed to make a decision and decided that the information may be used by the Complainant. As this document is tied to 9 additional hearings, this decision follows.
- 2) No additional objections on procedure or jurisdiction were raised.

Property Description:

The subject property is an Industrial-General (I-G) land use property with Industrial Warehouse Single Tenant (IW S) building type located in the East Shepard Industrial area. The subject site has an area of 1.51 acres providing site coverage of 21.32% with one building on site occupying a footprint and an assessable building area of 14,000 square feet built in 2004 with an office finish of 8%. Based on a typical 30% site coverage there is 0.44 acres of excess land.

Issues:

The Complainant identified two issues on the complaint form:

1. Assessment amount is incorrect
2. Assessment class is incorrect

The disclosure documents and board submissions resulted in the identification of these issues:

3. Valuation Methodology
4. Equity

Complainant's Requested Value: \$2,230,000 (complaint form)
\$1,940,000 (disclosure and hearing)

Summary of Complainant Evidence:

Complainant requested that evidence, questions and answers provided under the hearing for Roll Number 117005207, Decision Number CARB 1108/2011-P is entered into evidence. Complainant reviewed the subject assessment detail summary, map and photographs Document C7 (pages 1–10). Complainant provided recent sales information suggesting subject is overassessed (page 11). Complainant reviewed the equity comparables in argument of inequity (page 12). Complainant reviewed the Altus Industrial Capitalization Rate Analysis (cap study) for 2011 Document C1 to support their Income Approach including; a) review of the sales comparison approach (page 4), b) reviewed the lack of recent sales transactions which were argued to provide Assessment to Sales Ratios (ASR) out of an acceptable range (pages 4–8), c) discussion on the correct methodology of developing a typical market capitalization rate (page 9), d) discussion on the Altus cap rate study and its results (pages 19–20), and e) discussed the source documents throughout presentation. Complainant reviewed the subject's lease and lease comparables and present calculations (pages 13–14). Complainant reviewed land addition value and calculation for unsubdividable land (page 14). The Complainant summarized three value conclusions to arrive at the final requested value of \$139 per square foot which equated to a truncated value of \$1,940,000.

Summary of Respondent Evidence:

Respondent requested that evidence, questions and answers provided under the hearing for Roll Number 117005207, Decision Number CARB 1108/2011-P is entered into evidence. Respondent provided one Document R2; reviewed legislative authority (page 3), fairness and equity in mass appraisal (page 5), property valuation methodology (page 7), the sales comparison approach (page 8), burden of proof or onus of the parties (page 9), summary of testimonial evidence (page 11). Respondent further reviewed subject maps (pages 12–13), photos (page 14) and the subject's 2011 Assessment Explanation Supplement (AES) (page 15). Respondent continued with equity comparables (page 16), sales comparables (page 17), and responses to Complainant's equity (page 19), multi-building write up (page 20), response to Complainant's cap study (pages 28–97) and then provided a conclusion to support their requested assessment.

Summary of Complainant Rebuttal:

Complainant requested that evidence, questions and answers provided under the hearing for Roll Number 117005207, Decision Number CARB 1108/2011-P is entered into evidence. Complainant provided Rebuttal Document C8 and spoke to and provided evidence regarding Composite Assessment Review Board (CARB) decisions from 2010 in response to the Respondent comparables. In particular the Complainant found that sales comparable Roll Number 137037800 located at 4115 – 116 Ave SE was in question as per Decision Number CARB 1400/2010-P in that the sale was negotiated in 2007 but did not close until 2009. In addition the sales comparable Roll Number 200921278 located at 4398 – 112 Ave SE was in question as per Decision Number CARB 1352/2010-P in that the sale consisted of a property

developed for a specific tenant with higher-than-normal rent. Complainant also provided clarification and additional information regarding the following properties; a) 5472A – 56 Ave SE (page 13–14), and b) 4550 – 35 St SE (page 15–19).

Further, the Complainant provided Rebuttal Document C5 to this hearing and 9 additional hearings in support of their cap study assertions.

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

The Complainant did not provide any disclosure or argument regarding the second issue being "Assessment class is incorrect", therefore the only remaining issue identified on the complaint form related to "Assessment amount is incorrect" and was further identified through the two secondary issues being:

3. Valuation Methodology; the board carefully considered all the materials submitted by each party and placed the most weight on three comparables; Complainant's comparable (C7 page 11) located at 10447 – 50 St SE, Respondent's comparable (R2 page 17) located at 3520 – 48 Ave SE, and Respondent's comparable (R2 page 17) located at 5472 – 56 Ave SE. The board found there is sufficient qualitative and quantitative evidence to provide for a Direct Sales Comparison Approach and therefore made an adjustment. The Respondent provided an Income Approach to valuation however this was not relied upon as the board found when sufficient evidence exists for the Direct Sales Comparison Approach then that methodology is preferred.
4. Equity; the board carefully considered all the equity comparables and assigned the most weight on the equity comparables of similar characteristics including age, rentable building area, site coverage, parcel size, finish and building type. The board found that with our adjustment that the subject was equitable to its equity comparables.

Board's Decision:

After considering all the evidence and argument before the board the complaint is allowed and the assessment is reduced to \$2,590,000.

DATED AT THE CITY OF CALGARY THIS 14 DAY OF July 2011.


J. Dawson
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure – Industrial Capitalization Rate Analysis
2. C7	Complainant Disclosure – Evidence Submission
3. R2	Respondent Disclosure – Assessment Brief
4. C5	Rebuttal Document – Industrial Capitalization Rate Analysis
5. C8	Rebuttal Document

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.*