

**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:

K.E.G. Investments 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:	117005207
LOCATION ADDRESS:	7712 – 56 ST SE
HEARING NUMBER:	61248
ASSESSMENT:	\$2,820,000

This complaint was heard on 27th day and 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:

- D. Mewha *Agent, Altus Group Limited*
- J. Weber *Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

- J. Young *Assessor, The City of Calgary*
- J. Lepine *Assessor, The City of Calgary*

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

- 1) Mr. J. Young raised an 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 Great Plains Industrial area. The subject site has an area of 1.16 acres providing site coverage of 32.85% with one building on site occupying a footprint of 16,620 square feet and with an assessable building area of 18,120 square feet built in 1997 with an office finish of 17%.

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: \$2,440,000 (complaint form)
\$2,330,000 (disclosure and hearing)

Summary of Complainant Evidence:

Complainant reviewed the subject assessment detail summary, map, photographs and subdivision potential found in Document C2 (pages 1–11). Complainant provided recent sales information suggesting subject is overassessed (page 12). Complainant reviewed the equity comparables in argument of inequity (page 13). 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 lease with lease comparables and present calculations in Document C2 (pages 14–18). The Complainant summarized their value conclusion to arrive at the requested value of \$129 per square foot which equated to a truncated value of \$2,330,000.

Summary of Respondent Evidence:

Respondent provided Document R1 for this hearing and two additional hearings relating to roll numbers 117005405 and 117005603. Respondent reviewed legislative authority (page 4), fairness and equity in mass appraisal (page 6), property valuation methodology (page 8), burden of proof or onus of the parties (page 9), summary of testimonial evidence (page 11), and an overview of case law relating to Bentall and Bramalea (page 13). Respondent further reviewed subject maps (pages 15–17), photographs (pages 18–20) and the subject's 2011 Assessment Explanation Supplement (AES) (page 21). Respondent continued with equity comparables (page 24), sales comparables (page 25), and responses to Complainant's equity comparables (page 26), testing of Complainant's income inputs (page 28), MGB Decision (pages 30–47), Composite Assessment Review Board (CARB) decisions (pages 48–56), and response to Complainant's cap study (pages 58–120). Respondent provided a conclusion to support their requested assessment.

Summary of Complainant Rebuttal:

Complainant provided for this hearing Rebuttal Document C6 relating to this file and two additional files; Roll Numbers 117005405 and 117005603. Complainant 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 (pages 8–9), and b) 4550 – 35 St SE (pages 10–14). Complainant provided charts to

support their case (pages 15–17), and information on excess, additional and vacant land calculations (pages 18–21).

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 six comparables; Complainant's comparables located at 10447 – 50 St SE, and 5502 – 56 Ave SE, and Respondent's comparables located at 3520 – 48 Ave SE, 5005 – 77 Ave SE, 5472 – 56 Ave SE, and 12001 – 44 St SE. The board determined there is sufficient qualitative and quantitative evidence to provide for a Direct Sales Comparison Approach for the subject site and though the Complainant provided an Income Approach to valuation this was not relied upon as the board has determined that 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 the subject was in fact equitable to its equity comparables.

Board's Decision:

After considering all the evidence and argument before the board, the complaint is denied and the assessment is confirmed at \$2,820,000.

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. C2	Complainant Disclosure – Evidence Submission
3. R1	Respondent Disclosure – Assessment Brief
4. C5	Rebuttal Document – Industrial Capitalization Rate Analysis
5. C6	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.*