

**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:

Shepard Development Corporation, 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:	201314929
LOCATION ADDRESS:	100, 5126 – 126 AVE SE
HEARING NUMBER:	63051
ASSESSMENT:	\$3,470,000

This complaint was heard on 29th 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*

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 Multiple Tenant (IW M) building type located in the East Shepard Industrial area. The subject site has an area of 1.62 acres providing site coverage of 16.91% with one building on site occupying a footprint of 11,932 square feet and with an assessable building area of 17,632 square feet built in 2007 with an office finish of 66%. Based on a typical 30% site coverage there is 0.71 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. Excess Land Value due to an encumbrance
5. Equity

Complainant's Requested Value: \$2,600,000 (complaint form)
\$3,100,000 (disclosure and hearing)

Summary of Complainant Evidence:

Complainant began presentation and 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 C23 (pages 1–11). Complainant reviewed the equity comparables in argument of inequity found in Document C23 (page 14) with supporting pages further in. 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 document. Complainant reviewed the subject roll rent and most recent lease and present calculations as found in Document C23 (pages 12–13) with supporting pages further in. Complainant reviewed additional land value calculation for unsubdividable land as presented throughout Document C23. The Complainant summarized value conclusions to arrive at the requested value of \$161 per square foot which equated to a truncated value of \$3,100,000.

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 R10; 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), and case law surrounding Bramalea and Bentall decisions (page 12). Respondent further reviewed subject maps (pages 14–15), photos (page 16) and the subject's 2011 Assessment Explanation Supplement (AES) (page 18). Respondent continued with equity comparables (page 19), sales comparables (page 20), response to Complainant's equity (page 22) and response to Complainant's cap study (pages 23–92) 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 Document C24 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.

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 three secondary issues being:

3. Valuation Methodology; the board carefully considered all the materials submitted by each party and could not rely on any qualitative or quantitative evidence to provide for a Direct Sales Comparison Approach and though the Complainant provided an Income Approach to valuation, this too was flawed and could not be relied upon as it failed to recognize the value for the "rented" parking. The Respondent supplied evidence that the parking was provided without consideration however the board finds that had the subject property and the encumbering property been owned at arm's length, then consideration would have existed for the parking and this consideration must form part of the Income Approach. Rather than trying to quantify the parking arrangement the board determined there was none or little evidence to support a change in valuation methodology as the burden of proof standard had not been met.
4. Excess land value due to an encumbrance; the board finds that this encumbrance is not appropriate under the mass appraisal methodology as found in Matters Relating to Assessment and Taxation Regulation (MRAT) 2(b);

An assessment of property based on market value must be an estimate of the value of the fee simple estate in the property,

therefore if an Income Approach is used to derive the assessment then consideration for the parking assigned to the adjacent property must be quantified and accounted for.

5. 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 has determined the subject is fair and 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 \$3,470,000.

DATED AT THE CITY OF CALGARY THIS 19 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. C23	Complainant Disclosure – Evidence Submission
3. R10	Respondent Disclosure – Assessment Brief
4. C5	Rebuttal Document – Industrial Capitalization Rate Analysis
5. C24	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.*