

**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:

***Omers Realty Corporation c/o Oxford Properties
(as represented by Altus Group Ltd.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
D. Julien, MEMBER
J. Pratt, 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:	068054600
LOCATION ADDRESS:	214 6 AV SW
HEARING NUMBER:	64168
ASSESSMENT:	\$5,240,000

This complaint was heard on 29 day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Ms. S. Sweeney- Cooper* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *Mr. D. Grandbois* *Assessor, City of Calgary's Assessment Branch*

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

The parties' requested that their evidence and argument submitted on files #64062 and #64742, which were heard earlier that day, be carried forward to this case as well. The Board agreed with the parties' request.

Property Description:

The subject property is a 13,999 square foot (0.32 acres) unimproved parcel of land located in the Downtown Commercial Core. The site is located between the Bow Valley Square buildings and is currently used as green space. The land designation is DC- Direct Control District. The land was assessed at a base rate of \$375 psf.

Issues:

1. The assessment of the subject property is in excess of its market value for assessment purposes.

Complainant's Requested Value: \$3,009,785

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

The Complainant submitted that the subject property should be assessed based on the Income Approach to Value (Exhibit C1 page 14). The Complainant valued the property as if it was a parking lot, although this land is considered "green space" and no parking takes place on the property. She set out her calculation which the Board has reproduced (in part) as follows:

Roll #	2011 Original Assess	Assessed Land Area	300 sq. ft. parking ratio (City Standard)	EST # of Stalls	Going Parking Rate	Est Income	Annual Maintenance & Deductible -25% (City Standard)	Base NOI	Cap Rate 6%	Land Rate at Highest & Best Use	2011 Requested Assessment
068054600	\$5,240,000	13,999	300	46.66	\$430.00	\$20,065.23	\$15,048.93	\$180,587.10	\$3,009,785.00	\$215.00	\$3,009,785

The Complainant applied a parking rate of \$430.00 per stall based on her analysis of a neighbouring parkade (Exhibit C1 pages 24- 25). She applied the reduction for Annual Maintenance and Deductible (-25%) but conceded, based on testimony heard earlier in the week, the City applies that reduction to underground parkades, not surface parking lots.

The Complainant derived a 6.0% capitalization rate by deducting a full point from the capitalization rate applied to the office building known as Centennial Place West Tower (7.0%)

(Exhibit C1 page 26).

The Complainant submitted that land rates have not decreased in proportion to office building assessments between 2010 and 2011 (Exhibit C1 pages 17 & 18). She suggested that class A and class B office building assessments had decreased, on average, between 20%- 44%, whereas the subject property's assessment decreased approximately 6%.

The Complainant submitted the land rate, at highest and best use of \$215.00 psf, is further supported by four vacant land sales (Exhibit C1 pages 27- 37). The vacant lands, located in the downtown, sold within one year of the valuation date. They ranged in size between 4,628- 54,886 sq ft and sold for \$609,375- \$11,000,000 (\$125- \$200 psf). Two of which were court ordered sales. The Complainant stated land sales in the vicinity of the subject property are very limited.

The Respondent submitted the Complainant's capitalization rate of 6% is unfounded and unsupported. There were no income/expense statements submitted and she failed to demonstrate how vacant parcels sell in the marketplace based on their Net Operating Income from parking revenues.

The Respondent reviewed the Complainant's sales comparables (Exhibit R1 page 23). The property located at 525A 4 Street SW is a lane way, a portion of which was sold by the City to Imperial Oil; the property located at 509A 8 Avenue SE was a land swap deal between the Calgary Municipal Land Corporation and a numbered Alberta company. The remaining two sales, located at 221 9 Avenue SE and 923- 935 8 Avenue SW, are court ordered sales. The Respondent submitted that court ordered sales are not indicative of "market value" given the fact that there is no willing seller and the sale price is typically less than true market value.

The Respondent submitted market reports which indicate a decrease in office rental rates and an increase in vacancy rates in support of the decrease in assessments for downtown office buildings (Exhibit R1 pages 82- 91).

The Respondent submitted 4 vacant land sales in DT1 which occurred in 2007- 2008 in support of the base rate of \$375 psf (Exhibit R1 page 94). The vacant land parcels are 3,253- 27,950 sq. ft. and sold for \$2,300,000- \$14,500,000 (\$518- \$707 psf) for a mean of \$589.82 psf and a median of \$566.73 psf.

The Respondent also submitted several vacant land sales in DT2 which occurred in 2007- 2010 as further support of the assessment (Exhibit R1 page 99). The vacant land parcels are 9,764- 32,626 sq. ft., which sold for \$3,500,000- \$20,500,000 (\$183- \$630 psf) for a mean of \$421.58 psf and a median of \$316.96 psf.

The Respondent also submitted 86 equity comparables of DT1 properties which have received the \$375 psf base rate for the Board's consideration (Exhibit R1 pages 100 & 101)

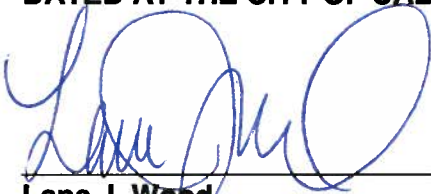
The Board finds the Complainant's income approach analysis, valuing vacant land as a parking lot, was flawed. The Complainant conceded that the use of the Annual Maintenance & Deductible (-25%) would not be appropriate given the evidence brought forward in previous hearings. Although she argued that a reduction for Annual Maintenance & Deduction would still be warranted, she was unable to provide an alternative percentage for the Board's consideration. The Board finds the capitalization rate of 6% was arbitrary and unsupported. As

such, the Board finds the Complainant's income approach was unreliable and insufficient to bring the assessment into question.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment for the subject property at \$5,240,000.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF AUGUST 2011.



Lana J. Wood
Presiding Officer

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

EXHIBIT NO.	ITEM
1. C1	Complainant's Brief
2. R1	Respondent's Assessment Brief

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.*