

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Aura Tower Developments Ltd.,
(as represented by Altus Group Ltd.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
J. Pratt, MEMBER
D. Julien, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBERS:	201050127 201050119
LOCATION ADDRESSES:	923 8 AV SW 935 8 AV SW
HEARING NUMBERS:	64627 64742
ASSESSMENTS:	\$3,750,000 \$4,550,000

These complaints were 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 11.

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*

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

The parties' requested that file numbers **64627** and **64742** be heard together as the evidence and argument would be similar to both complaints. The Board agreed with the parties' request.

Property Descriptions:

The subject properties are two vacant parcels of commercial land located in the downtown commercial core. The property located at 923 8 AV SW is 15,188 sq. ft. (0.35 acres), and the property located at 935 8 AV SW is 17,438 sq. ft. (0.40 acres). The land use designation is downtown business district. The properties were assessed based on a land rate of \$275.00 psf. Both had the site influence of transition zone- decrease land only applied to their assessments (-10%). The property located at 935 8 Avenue SW also had a positive site influence of corner land (+5%) applied to its assessment.

Issues:

1. The current assessment has not decreased from 2010 in proportion to office building assessments.

<u>Complainant's Requested Values:</u>	\$3,660,000 (923 8 AV SW)
	\$3,030,000 (935 8 AV SW)

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

1. The current assessment has not decreased from 2010 in proportion to office building assessments.

The Complainant submitted that land rates have not decreased in proportion to office building assessments between 2010 and 2011 (Exhibit C1 pages 20 & 21). She suggested that class A and class B office building assessments had decreased, on average, between 20%- 44%, whereas the subject properties' assessments decreased approximately 5%.

The Complainant submitted the Board decision from last year regarding these properties (CARB

2285-2010-P) in which the Board reduced the assessments. The reduction was based, in part, on the court ordered sale of the properties in July 2010 and the fact that these properties were on the market for a long period of time (Exhibit C1 pages 24- 27). The properties were sold on July 6, 2010 for \$6,000,000 or \$186.00 psf (Exhibit C1 pages 28- 30). That Board accepted a time adjusted sale price of \$200.00 psf (Exhibit C1 page 26). The Complainant is seeking the same values as determined by that Board for this year's assessments for the subject properties.

The Respondent submitted that year over year adjustments are irrelevant as assessments are done on an annual basis. The Respondent questioned the validity of the Complainant's analysis of comparing A & B office buildings to vacant parcels of land. He did not dispute the decrease in office building assessments but indicated that there are factors that affect improved properties such as capitalization rates, lease rates, operating costs, changes in inventory etc. that can change substantially from year to year which do not affect vacant land (Exhibit R1 pages 20-29).

The Respondent submitted that court ordered sales should not be included in the analysis as these sales occur under duress and do not fit the definition of market value set out in section 1(1)(n) of the *Municipal Government Act* (Exhibit R1 page 30) as follows:

"market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer,

However, the Respondent added that if this Board accepts the reasoning set out in CARB 2285-2010-P, then it should also consider a similar property located at 919E 5 Avenue which was also a court ordered sale that resold in November 2010 for \$4,250,000 or \$435.90 psf (Exhibit R1 page 78).

The Respondent provided sales of vacant land parcels in DT2 East in support of the \$275.00 psf land rate (Exhibit R1 pages 66- 78). The eight comparables (including the sale of the subject properties) are 9,764- 32,626 sq. ft. that sold for \$3,500,000- \$20,500,000 (\$183.90- \$630.81 psf) between August 2007 and July 2010. The sales indicated a mean of \$421.58 psf and a median of \$316.96 psf.

The Respondent also provided 67 equity comparables located in DT2 East in which the Respondent applied a base rate of \$275 psf (Exhibit R1 pages 79 & 80).

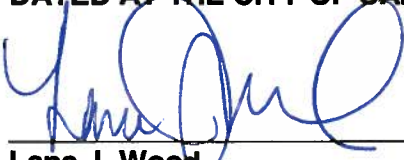
The Board finds the Complainant failed to provide sufficient evidence to warrant a change in the assessments. The Board notes the Complainant's request for the property located at 923 8 AV SW is 2.4% less than its current assessed value. The subject properties sold in July 2010 for \$6,000,000 or \$183.90 psf. However there was no evidence of sales comparables or no evidence to support the year over year changes as to building class versus vacant land; therefore, the Board does not find the Complainant's argument compelling. The Board was persuaded by the Respondent's vacant land sales analysis that indicate a median rate of \$317 psf while the base rate applied to the subject properties is \$275 psf.

Board's Decision:

The decision of the Board is to confirm the 2011 assessments for the subject properties as follows:

The 2011 assessment for the property located at 923 8 AV SW is confirmed at \$3,750,000;
The 2011 assessment for the property located at 935 8 AV SW is confirmed at \$4,550,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF AUGUST 2011.



Lana J. Wood
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's Disclosure

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.*