

**CALGARY
COMPOSITE 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:

1504036 Alberta Ltd. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Chilibeck, PRESIDING OFFICER

K. Farn, MEMBER

P. Charuk, 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: 100013101

LOCATION ADDRESS: 6204 – 6A ST SE

HEARING NUMBER: 63068

ASSESSMENT: \$4,790,000

This complaint was heard on 4th, 5th and 7th day of July, 2011 at the office of the Assessment Review Board located in Boardroom 2 on Floor Number 4 at 1212 – 31 Avenue NE, Calgary, Alberta,.

Appeared on behalf of the Complainant:

- *R. Worthington*

Appeared on behalf of the Respondent:

- *G. Bell*
- *T. Luchak*

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

Neither party objected to any member of the Board hearing the complaints.

The Complainant advised the Board he would like to present his argument and evidence on one issue, capitalized income method and capitalization rate analysis, that is common to eighteen complaints to be heard by the Board during week July 4 and requested the Board carry forward their decision on this issue from this property to the decision for the other seventeen properties under complaint. The Respondent did not object to this process and the Board accepted to proceed accordingly.

The Board, notes for the record, that the hearing of the income method was made in two parts and on two different days. On the first day, July 4, the Board heard the argument from the Complainant. The Respondent's representative, G. Bell, did not make a disclosure on this issue but was given the opportunity to question the Complainant.

On the third day, the Respondent was represented by T. Luchack who had made a disclosure on the income method issue and agreed to forgo hearing the Complainant's presentation on this issue and proceed with presenting his argument. Mr Luchak admitted that he had been briefed by Mr. Bell and he was knowledgeable of the Complainant's argument and evidence on the income method. The Complainant was allowed to present his rebuttal argument and the hearing on this issue was concluded.

On the second day, The Board was advised by both Mr. Worthington and Mr. Bell that they agreed that the sale of the subject should set the assessment and this assessment should be used as a base for the resolution of seven other complaints, namely file nos. 63068, 63976, 64196, 64481, 64483, 64484, 64485 and 64487.

Property Description:

The subject is a one storey industrial warehouse, single tenant property constructed in 1972 with an assessable building area of 39,193 sq ft with 51% office finish and a footprint of 27,182 sq ft on a parcel of land containing 2.91 acres. The site coverage is 21.48% and the LUG (land use guideline) is IG (Industrial General). It is located in the Burns Industrial subdivision of the Central Region of SE Calgary.

The subject property is assessed at \$122 per sq ft of building area and determined by the sales comparison method.

Issues:

The Complainant identified several issues on the Assessment Review Board Complaint and in the documentary evidence disclosure. The Board summarized the issues as follows:

1. Income method of valuation versus the direct sales comparison of valuation.
2. Sale of the subject in December 2009 is best indicator of value.

Complainant's Requested Value: \$3,820,000

Board's findings in Respect of Issue:

1. Income method of Valuation

At the outset of this hearing, the parties requested, and the Board accepted, that evidence, argument, questions and responses be carried forward to 17 other complaints scheduled to be heard the week of July 4, 2011. Namely these are files 61088, 61177, 61244, 63068, 63275, 63976, 64030, 64035, 64180, 64196, 64300, 64313, 64481, 64483, 64484, 64485, 64487 and 64634.

The Complainant argued that the capitalized income method produces a more accurate value of a property than the direct sales comparison method used by the Respondent. To support this claim, an assessment to sales ratio analysis was calculated on the eight sales used to determine the typical cap rates and categorized into two groups, before and after 1994 development. This analysis showed, for those properties developed before 1994, the Respondent's ASR at 1.10 versus the Complainant's ASR at 1.00 and for those properties developed after 1994, the Respondent's ASR at .098 versus the Complainant's ASR at 1.00. The Complainant argued the ASR analysis supports the contention that the income method produces a more accurate value than the Respondent's sales comparison method wherein the Respondent used 154 sales in their sales comparison model using multiple regression analysis.

The Complainant provided an analysis of the eight sales that sold within the 15 month period (April, 2009 to July, 2010) prior to the valuation date of July 1, 2010. These sales were divided into two categories, those sales of property developed prior to 1994 and those developed subsequent to 1994 and determined that the median capitalization rate is 8.25% and 7.75% respectively.

In determining the stabilized income for each sale comparable, the actual lease rates at time of sale were used and for the vacant space, if any, the market lease rate at time of sale was used.

In the cap rate analysis and in calculating the requested values, the Complainant used a 5% vacancy/non-recoverable allowance and asserted "this keeps the deduction consistent with all sales and applies the deduction in a consistent manner". Market publications were used by the Complainant to support the 5% vacancy allowance.

The Respondent assesses most industrial properties using the direct sales comparison mass

appraisal model. The Respondent did not apply the income method in valuing the subject property nor was one used to support the assessment in their evidence disclosure. The Respondent provided in evidence a comparison of the Altus lease rate to the Respondent's ARFI (Assessment Request for Information) lease rates and identified differences in 21 of the 51 lease rates. The Respondent asserted this makes the cap rate study unreliable. In rebuttal the Complainant provided additional rent information for some of the sales and asserted that the cap rate calculations, using typical market rent at time of sale, is higher than the using the Respondent's ARFI rents, that are at times outdated.

The Board finds that the Complainant has made their point regarding the income method however; the Board finds the Assessor is not bound by any legislation to use a specific method of valuing property. The assessor is required to assess property at its market value and the Board accepts there are three generally accepted methods of valuing property, one of them being the income method and another being the sales comparison method. It is not the responsibility of the Board to pass judgement as to the method to be used by the assessor. The Board's responsibility is to make a decision whether an assessment is correctly valued at market value or equitably assessed to similar property. In making a decision, the Board will determine each decision based on evidence and argument presented on each complaint. This issue has been decided by several previous Board decisions and based on the evidence and argument at this hearing, this Board is not persuaded to make a decision otherwise.

2. Sale of Subject in 2009

The Complainant supported their request for a reduction in the assessment with the sale of the subject and three equity comparables, eight lease rate comparables and nine business assessment rate comparables located in the same region as the subject.

The subject sold for \$3,820,000 with a sale date of December 15, 2009 at a rate of \$97.59 per sq ft of building area.

The Complainant's equity comparables are similar to the subject except for the amount of finish; the comparables range from 9% to 31% versus the subject at 51%. The median assessed rate is \$109.98 per sq ft of building area.

The median of the lease rate comparables is \$7.13. When used in the Complainant's income model with a 5% vacancy allowance and 8.25% cap rate plus an adjustment for excess land, this yields a value at \$3,210,000 or \$81.90 per sq ft.

The median of the business assessment rates is \$6.50. When used in the Complainant's income model plus an adjustment for excess land, yields a value at \$3,194,973 or \$81.51 per sq ft.

The Board placed most weight on the sale price. The Board accepts that a sale price of the subject reasonably close to the valuation date is the best indicator of value of the subject. As neither party brought forward that there were any changes to the subject subsequent to the sale date, the Board placed most weight on the sale price and finds the equity comparables from both parties support this value. The Board placed little weight on the lease and business rate comparables. The Board notes that the subject is occupied by a tenant however, neither party provided the lease rate for the subject to show where it falls within the range of lease and business rates.

Before the conclusion of hearing this complaint, both parties advised the Board that they agree that the assessment for the subject should be set at the sale price of the subject.

Based on the forgoing, the Board's decision is to change the assessment.

Board's Decision:

The Board's decision is to change the assessment for the subject property to \$3,820,000.

DATED AT THE CITY OF CALGARY THIS 11 DAY OF AUGUST 2011.

A handwritten signature in black ink, appearing to read 'M. Chilibeck', is written over a horizontal line.

M. Chilibeck
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. C2	Complainant's Industrial Capitalization Rate Analysis 2011
3. C3	Complainant's 2011 Rebuttal Evidence for Multiple Roll #'s (in 2 parts)
4. R1	Respondent's Disclosure
5. R1 (from file 63275)	Respondent's Response to Altus Leased Fee Cap Study (at page 32)

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.*

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<i>Decision No. 1292-2011-P</i>		<i>Roll No. 100013101</i>		
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Warehouse	Single Tenant	-Income/sales Approach -Sale price	Net Market Rent