

AMENDED
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:

Governors of the University of Calgary
(as represented by Altus Group Limited), COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

J. Dawson, PRESIDING OFFICER
A. Wong, MEMBER
I. Fraser, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board [*CARB*] in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	037181013
LOCATION ADDRESS:	3520 Research Way NW
LEGAL DESCRIPTION:	Plan 8210928; Block 4; Lot 1
HEARING NUMBER:	67662
ASSESSMENT:	\$ 15,290,000

- [1] This complaint was heard on the 14 day of August, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 2.
- [2] Appeared on behalf of the Complainant:
- D. Chabot Agent, Altus Group Limited
- [3] Appeared on behalf of the Respondent:
- M. Ryan Assessor, City of Calgary

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

- [4] No procedural or jurisdictional matters were raised.

SECTION B: Issues of Merit

Property Description:

- [5] Constructed between 1989, the subject – 3520 Research Way NW, is comprised of two buildings: the first being a five-storey, multi-tenanted, suburban office building used primarily for research purposes. The second building is a small, single-storey garage structure used primarily for vehicle maintenance and storage. The subject property is situated one block east of Crowchild Trail just north of 40 Avenue NW in an area known as Varsity.
- [6] The Respondent prepared the assessment showing 239,922 square feet of space, allocated; 207,007 square feet office space graded as an 'A' quality, 28,278 square feet office space below grade, 1,218 square feet as pad tenant, and 3,419 square feet as storage. The site has an area of 478,272 square feet.
- [7] A separate assessment is associated with this property representing 166,977 square feet of the 239,922 square feet. The space is allocated 148,059 square feet for office space and 18,918 square feet of office space below grade. These spaces are exempt from taxation therefore only 58,948 square feet of office space and 9,361 square feet of office space below grade is under complaint. The value related to the exempted space is \$36,690,000.

Matters and Issues:

- [8] The Complainant identified two matters on the complaint form:
- Matter #3 - an assessment amount*
 - Matter #4 - an assessment class*
- [9] Following the hearing, the Board met and discerned that this is the relevant question which needed to be answered within this decision:

1. *What is the correct space size and allocation between sub-components?*
2. *What is the correct typical rental rate for the subject's office space sub-component?*

Complainant's Requested Value:

- \$11,468,000 on complaint form
- \$13,900,000 in disclosure document and confirmed as the request

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

Matter #3 - an assessment amount

Question 1 What is the correct space size and allocation between sub-components?

Complainant's position

- [10] The Complainant indicated that the area allocation between sub-components has been incorrectly apportioned. There is no pad site on the subject property. The second building is a garage and should be listed as storage. The total actual storage on-site is 1,115 square feet.
- [11] In support of their claim, the Complainant provided the rent roll for the subject (C1 pp. 33-34) and a chart to summarize their calculations (C1 p.35).
- [12] The rent roll shows a restaurant on the second floor of the main structure with 1,218 square feet of space, the identical apportionment indicated as pad tenant on the Non-Residential Properties – Income Approach Valuation summary (C1 pp. 14-15). The conclusion the Complainant makes is the Respondent has incorrectly assigned the pad tenant sub-component to the restaurant. In addition the rent roll indicates 1,115 square feet of storage space as opposed to the 3,419 square feet of assessed storage.

Respondent's position

- [13] The Respondent position is the assessment is correct. The Complainant has never raised this as an issue of concern in previous years, nor during the advance consultation period of October 3, 2011 through October 21, 2011, and not during the customer review period of January 3, 2012 through March 5, 2012. These periods of review are designed to facilitate correction of factual errors and understanding of their assessment.
- [14] The Respondent also indicated that their policy is to correct any factual errors on the following year assessment if they are brought forward after the completion of the customer review period.
- [15] The Respondent notes that the Complainant did not identify the area as an item of concern on the initial complaint form and asked the Board to not hear an issue not identified on the complaint form as contemplated within Matters Relating to Assessment Complaints [MRAC] regulation section 9(1).

Board's findings

- [16] The Board finds that *MRAC* 9(1) does stipulate that the Board must not hear any matter in support of an issue that is not identified on the complaint form. The confusion comes in the choice of words; **any matter in support of an issue**. The Board typically deals with **issues in support of a matter**.
- [17] Matters are identified with *the Act* section 470(5)(a-j) as; (a) *the description of a property or business*; (b) *the name and mailing address of an assessed person or taxpayer*; (c) *an assessment*; (d) *an assessment class*; (e) *an assessment sub class*; (f) *the type of property*; (g) *the type of improvement*; (h) *school support*; (i) *whether the property is assessable*; and (j) *whether the property or business is exempt from taxation*.
- [18] The Board must determine if area is encompassed within any of the ten matters; (a) contemplates the description of the property or business. Area can be used to describe a property; however, in this case the Board finds the description being the property address. (c) An assessment; contemplates a value. The Respondent derives the assessment value by calculating area and other criteria on their Non-Residential Properties – Income Approach Valuation summary. The Board finds that area is a variable within the valuation summary, and as such, the correct matter under complaint is *an assessment*.
- [19] Further the Board finds that the threshold for a full hearing is at least one potentially viable appeal issue pertaining to a matter under complaint. Any issue disclosed pertaining to a matter under complaint is valid and must be heard by the Board.
- [20] Having heard the issue under complaint; the Board finds the evidence inconclusive. Using commonsense, the Board considered the storage space is the 1,115 square feet identified within the rent roll plus the area of the garage, whatever area that is. Perhaps the garage is 2,304 square feet, the same area that seems to be missing. The Board also considered the restaurant is incorrectly identified as a pad tenant; however, the rental rate may in fact be similar. Regardless, the Board cannot and will not speculate, neither the Complainant nor the Respondent provided convincing evidence of what the correct area is.
- [21] **The Board finds all factual areas identified as sub-components within the Non-Residential Properties – Income Approach Valuation summary correct.**

Question 2 What is the correct typical rental rate for the subject's office space sub-component?**Complainant's position**

- [22] The Complainant provided two leases (C1 p. 39); both leases are within the valuation period and range between \$13 and \$20 per square foot arriving at a mean and median of \$16.50 and a weighted mean of \$15.58.
- [23] The Complainant presented that these two leases are the only ones available to them for the same quality within the northwest.

Respondent's position

- [24] The Respondent rather than discrediting the two leases utilized them with two others in their analysis (R1 p. 15). The Respondent provided analysis of the four leases indicating a range between \$13 and \$21 with a mean and median of \$19.50, and a weighted mean of \$17.89, which supports the assessment of \$18.

Board's findings

- [25] The Board prefers to see leasing activity in numerous buildings to establish typical market rents. In this case, the Board finds that all four leases are reliable evidence for the subject property.
- [26] **Therefore, the Board accepts the conclusion of the Respondent and maintains the typical office rental rate at \$18.**

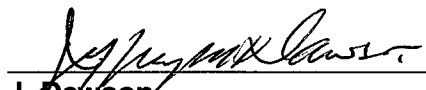
Matter #4 - an assessment class

- [27] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

Board's Decision:

- [28] **After considering all the evidence and argument before the Board it is determined that the subject's assessment is confirmed at a value of \$15,290,000, which reflects market value and is fair and equitable.**

DATED AT THE CITY OF CALGARY THIS 15 DAY OF October 2012.



J. Dawson
Presiding Officer

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

NO.	ITEM
1.	C1 Complainant Disclosure
2.	R1 Respondent 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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	High Rise	Income Approach	Rental Rate

APPENDIX "B"**LEGISLATION****The Municipal Government Act (the Act)**

Chapter M-26, Section 460, Revised Statutes of Alberta 2000

- 460(1)** *A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.*
- (2)** *A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.*
- (3)** *A complaint may be made only by an assessed person or a taxpayer.*
- (4)** *A complaint may relate to any assessed property or business.*
- (5)** *A complaint may be about any of the following matters, as shown on an assessment or tax notice:*
- (a) the description of a property or business;*
 - (b) the name and mailing address of an assessed person or taxpayer;*
 - (c) an assessment;*
 - (d) an assessment class;*
 - (e) an assessment sub-class;*
 - (f) the type of property;*
 - (g) the type of improvement;*
 - (h) school support;*
 - (i) whether the property is assessable;*
 - (j) whether the property or business is exempt from taxation under Part 10.*
- (6)** *There is no right to make a complaint about any tax rate.*
- (7)** *A complainant must*
- (a) indicate what information shown on an assessment notice or tax notice is incorrect,*
 - (b) explain in what respect that information is incorrect,*
 - (c) indicate what the correct information is, and*
 - (d) identify the requested assessed value, if the complaint relates to an assessment.*

Matters Relating to Assessment Complaints (MRAC)

Alberta Regulation 310/2009

Failure to disclose

- 9(1)** *A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.*
- (2)** *A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.*