

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of 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:

**358296 Alberta Ltd.
(as represented by Altus Group Limited), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
D. Pollard, MEMBER
A. Wong, MEMBER**

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

ROLL NUMBER:	033505363	033505389	033505405	033505421	033505447
UNIT NO.	1	2	3	4	5
LOCATION ADDRESS:	----- 4321 14 ST NE -----				
HEARING NUMBER:	63204	63205	63206	63202	63208
ASSESSMENT:	\$680,500	\$719,500	\$726,500	\$719,000	\$707,500

The complaints were heard on June 29, 2011, in Boardroom 2 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- C. Van Staden

Appeared on behalf of the Respondent:

- W. Wong

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Descriptions:

The subject properties are five individually titled industrial warehouse condominium units constructed in 1979, and ranging in main floor area from 4,078 to 4,417 sq.ft. The units are assessed at an approximate rate of \$165 per sq.ft. of main floor area.

Issues:

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment
4. an assessment class

At the commencement of the hearing the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter 3, an assessment amount. The Complainant set out nine grounds for the complaints in section 5 of the complaint form, however, in the evidence the Complainant consolidated the grounds for complaint into 4 objectives as set out on page 2 of C1, and at the hearing provided no evidence and argument with respect to objective #4, related to assessment equity. Only the following specific issues remained to be decided by the Board.

Issue 1: The sizes of the condominium units are inaccurate, resulting in improper assessments.

Issue 2: The income approach to value is the best method of valuation for the subject property and indicates a market value of \$111 per sq.ft. (of improvement area). {Objectives 1 and 2}.

Issue 3: The direct sales comparison approach indicates a market value of \$125 per sq.ft. (of improvement area), and supports a reduction to the 2011 property assessment. {Objective 3}

Complainant's Requested Value:

The Complainant requested that the properties be valued at a rate of \$111 per sq.ft. of improvement area, resulting in total assessment values ranging from \$484,500 to \$641,000 as set out on page 9 of exhibit C1.

Board's Decision in Respect of the Complainant's Issue:

Issue 1: The sizes of the condominium units are inaccurate, resulting in improper assessments.

In support of the argument that the sizes of the condominium units were inaccurate, the Complainant submitted copies of the lease agreements for each unit, setting out the leased areas of each specific unit, as summarized on page 6 of C1.

The Respondent did not provide any evidence of the actual sizes of the condominium units in support of the assessed areas, and did not challenge the Complainant's position.

Decision: Issue 1

The Board finds that the assessable area of the units are as follows:

UNIT NO.	1	2	3	4	5
SIZE - SQ.FT.:	5,800	4,387	5,280	5,166	5,172

The Board notes that as all of the units are owned by one entity lease agreements across legal condominium boundaries are possible, however, there was no evidence provided by the Respondent to refute the unit sizes exhibited by the Complainant's lease agreement evidence.

Issue 2: The income approach to value is the best method of valuation for the subject property and indicates a market value of \$111 per sq.ft. (of improvement area). {Objectives 1 and 2}.

The Complainant argued that as a result of changing market conditions during the assessor's 36 month sales analysis period and the limited number of recent sales to June 30 of the assessment year, the assessor's direct sales comparison approach model is unreliable and an alternate valuation approach should be employed. In support of that argument, the Complainant submitted an ASR (Assessment to Sale Ratio) graph of the sales relied on by the assessor, illustrating that in only 23% of the instances the model predicted a sale price within 5% of the actual sale price of the property; in the remaining 77% of the instances the model predicted sale prices outside of the legislated range of 0.95 to 1.05 [C2, p.8].

As a result, the Complainant argued that the income approach to value was the most reliable approach for the subject property, and submitted the following valuation parameters:

Vacancy rate: {5.0%} estimated from a number of Q1 (first quarter 2010) third party market reporting agencies [C2, p.17].

Market rent: {\$9.60} derived from the median rent rate of five current leases in the subject complex. The lease rates ranged from \$7.46 (net) to \$12.00 (gross) per sq.ft., and were supported as typical rents by comparison to a summary of nine other leases of typical industrial spaces [C1,p.10].

Capitalization rate: {8.25%} determined from an analysis of eight industrial properties (of the 56 sales that occurred between January 2009 and June 2010) ranging in price from \$1,850,000 to \$25,825,000 and exhibiting a median capitalization rate of 7.98%. The eight sales were further analysed on the basis of their age, with the five properties constructed prior to 1994 (as is the subject property) exhibiting a median capitalization rate of 8.24%, and the three properties constructed after 1994, exhibiting a median capitalization rate of 7.79% [C2, p.19]. The Complainant indicated that the sales relied upon were of larger industrial properties, as it was impossible to find sales of condominium warehouse units with corresponding income information that could be used to establish a capitalization rate.

The Complainant set out the calculation for each of the condominium units under complaint, employing the valuation parameters as set out above to arrive at a valuation conclusion of \$111 per sq.ft. [C1, p.9].

The Respondent argued that the direct sales comparison approach employed by the assessor is the most appropriate approach for the subject properties, as warehouse condominiums typically trade as owner-occupied properties, with the potential income generating characteristics being less significant. The Respondent did not prepare an estimate of value by the income approach.

Decision: Issue 2

The Board finds that there was insufficient relevant evidence to conclude that the income approach to value is the best method of valuation for the subject property.

With respect to the selection of a valuation approach, the Board has on several occasions indicated that it will not identify a preference as to which valuation approach should be used to determine the assessed value of a property. Notwithstanding, there may be circumstances when one or more approaches will provide a superior estimate of value to another approach; typically when one approach mirrors the motivations of the parties in the marketplace better than does another approach. In this instance, the Respondent's assertion that warehouse condominiums typically trade as owner-occupied properties was substantiated by the Complainant, who indicated that it was impossible to find sales of condominium warehouse units with corresponding income information from which to establish a capitalization rate. Although the Complainant argued that the reported capitalization rate for condominium bays range from 6 - 9% with a median of 8%, there was no market evidence to support these figures.

The Board also finds that there was insufficient evidence to conclude that the assessor's direct comparison approach valuation model is unreliable, as there was no evidence submitted with respect to the median ASR, nor to the Coefficient of Dispersion of the ASR's. Further, although the Complainant's graph indicated that 77% of the sales fell outside of the legislated range of 0.95 to 1.05 for the median ASR, the Complainant conceded that the evidence suggests the model appears to estimate values below the sale price almost twice as often as above the sale price, 51% vs. 26%, respectively.

Issue 3: The direct sales comparison approach indicates a market value of \$125 per sq.ft. (of improvement area), and supports a reduction to the 2011 property assessment. {Objective 3}

The Complainant submitted three sales of industrial condominium units ranging in size from 4,660 to 4,800 sq.ft. and exhibiting sale prices ranging from \$108 to \$141 per sq.ft. (including mezzanine area), and an average rate of \$125 per sq.ft. [C1, p.11]. The Complainant argued that this average rate should be applied to the current assessed areas to establish unit assessments ranging from \$608,500 to \$653,000.

Address	Sale Price	Net Rentable Area	Rate / sq.ft
11 1420 40 Ave NE	\$520,000	4,800	\$108
2 624 Beaver Dam Road NE	\$655,000	4,660	\$141
17 2219 35 Ave NE	\$600,000	4,704	\$128
Average			\$125

In support of the assessment the Respondent submitted two warehouse condominium sales, one of which was also included in the Complainant's evidence, but indicated a different size. The particulars are set out below:

Address	Sale Price	Net Rentable Area	Rate / Sq.Ft.
9 1404 44 Ave NE	\$367,500	2,070	\$177
11 1420 40 Ave NE	\$520,000	3,000	\$173

Decision: Issue 3

The Board finds the relevant sales evidence exhibits a market value of \$125 per sq.ft. that is applicable to the total area (including mezzanine areas) of the subject properties.

With respect to the sale of 17 2219 35 Ave NE in the Complainant's evidence, the Board finds that the third party evidence submitted in support of the sale is contradictory with respect to the actual size of the property; 4,096 sq.ft. (ADS) vs. 4,704 sq.ft. (RealNet). This evidence renders the sale of no value in establishing a rate per sq.ft. that could be applied to the subject properties. With reported (and again contradictory) ceiling heights of either 12 or 14 feet, the difference in total area could not be explained as mezzanine space due to restricted ceiling height.

The sale of 9 1404 44 Ave NE in the Respondent's evidence, although supported with a transfer document, also is not afforded any weight as the physical characteristics of the property were not in evidence.

The Complainant's remaining two sales demonstrate an average sale price of \$125 per sq.ft. however, the supporting third party sales reports in evidence indicate that both sales include significant amounts of mezzanine spaces reflected in the total area calculations, as set out below:

Address	Sale Price	----- Area -----			-----Sale Price / Sq.Ft.-----	
		Main	Upper	Total	Main Area	Total Area
11 1420 40 Ave NE	\$520,000	3,000	1,800	4,800	\$173	\$108
2 624 Beaver Dam Road NE	\$655,000	3,313	1,347	4,660	\$197	\$141
Average					\$185	\$125

The Board finds that the sale of 11 1420 40 Ave NE, common to both the Complainant's and Respondent's evidence, demonstrates a value of \$173 per sq.ft. applicable to the main floor area, or \$108 per sq.ft. applicable to the total area, including mezzanine areas.

The Complainant's sale of 2 624 Beaver Dam Rd NE demonstrates a value of \$197 per sq.ft. applicable to the main floor area, or \$141 per sq.ft. applicable to the total area, including mezzanine areas.

The Board accepts that the Complainant's sales evidence supports a value of \$125 per sq.ft., however, the Board does not accept the Complainant's argument that the rate should be applied to only the main floor area of the subject properties. Accordingly, the Board sets the assessment values by applying a rate of \$125 per sq.ft. to the total areas of the units as established in issue 1, above.

UNIT NO.	1	2	3	4	5
SIZE - SQ.FT.:	5,800	4,387	5,280	5,166	5,172
RATE / SQ.FT.:	\$125	\$125	\$125	\$125	\$125
ASSESSMENT:	\$725,000	\$548,375	\$660,000	\$645,750	\$646,500

Board's Decision:

The assessments are revised as set out below:

ROLL NUMBER:	033505363	033505389	033505405	033505421	033505447
UNIT NO.	1	2	3	4	5
ASSESSMENT:	\$680,500	\$719,500	\$726,500	\$719,000	\$707,500
REVISED:	\$725,000	\$548,000	\$660,000	\$645,500	\$646,500

DATED AT THE CITY OF CALGARY THIS 16 DAY OF AUGUST, 2011.


 J. Krysa
 Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission
3. C2	Complainant's Submission – Capitalization Rates
4. C3a	Complainant's Rebuttal Submission – Part 1
5. C3b	Complainant's Rebuttal Submission – Part 2

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.*