

**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:

Concert Real Estate Corporation (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. J. Griffin, PRESIDING OFFICER

J. Rankin, 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: 047044003

LOCATION ADDRESS: 3110 – 12 Street NE

HEARING NUMBER: 62980

ASSESSMENT: \$4,670,000

This complaint was heard on 3rd day of August, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- C. Van Staden

Appeared on behalf of the Respondent:

- M. Berzins

Procedural or Jurisdictional Matters:

As a matter of Procedure the CARB, at the request of both parties, heard an extensive capitalization rate argument presented by the parties before this same panel of the CARB on August 3, 2011 and it was agreed that all of that evidence and argument would be carried forward and be applicable to this Hearing.

Property Description:

The subject property is single-tenanted warehouse type property that was originally constructed in 1998. The building has a footprint, and assessed area of approximately 35,200 Sq. Ft. The building is approximately 33% finished for office uses. The property sits on a 2.22 acre parcel of land and it has a site coverage of 36.33%.

Issues:

While there are a number of interrelated issues outlined on the Assessment Review Board Complaint form, the Complainant reduced the issues to be considered by the CARB to:

1. The Income Approach is the best method for valuing the subject property given the volatile economy that was/is in place for the assessment valuation period.
2. The sale of the subject property is the best indicator of the market value of the property.

Complainant's Requested Value: \$3,120,000.

Party Positions:**Complainant's Position**

The Complainant has valued the subject property through application of the Income Approach to Value and maintains that same is the best method of valuation to be used in this instance. The Complainant's requested value of \$3,120,000 is based upon their application of the Income Approach.

The Complainant also argued that the assessment of the subject property is inequitable when compared to similar properties and provided (Exhibit C-1 pg. 14) six (6) equity comparables to support this contention. These six properties are all located in the N.E. industrial area(s) of Calgary. The buildings range in size from 31,144 Sq. ft. to 38,560 Sq. Ft. and the underlying sites ranged from 1.23 acres to 2.07 acres. The year of construction varied from 1987 to 1998 and the percentage of finished space ranged from 1.82% to 39%. The 2011 assessed values ranged from \$65/Sq. Ft. to \$123/Sq. Ft. The assessed value of the subject equates to \$133/Sq. Ft.

The Complainant provided evidence (Exhibit C-1 pgs. 26 – 29) of a sales summary, from the *RealNet* data base, pertaining to the September '08 sale of the subject property which reports that the sale was a part of a portfolio sale involving five (5) properties. The Complainant also produced (Exhibit C-1 pg. 35) an Affidavit of Transferee wherein the value of the five (5) properties included in the aforementioned purchase is segregated and the value of the subject is reported as \$3,843,942. The Complainant maintains that, at minimum and from a sales analysis point of view, the Assessor's Time Adjusted Sales Price (TASP) of \$3,670,000 (truncated), which equates to \$103/Sq. Ft., is a reasonable indication as to the value of the subject property. As further support of this contention the Complainant referenced the *Acton* decision and they included (Exhibit C-1 pgs 57 – 63) a copy of the said decision.

Respondent's Position

The Assessor maintains that they have sufficient sales data to warrant application of the Direct Comparison (Sales) Approach which they maintain is an acceptable method to derive the assessed value for a warehouse type property. The Assessor acknowledges that a goodly number of the sales utilized in their analysis date to pre 2009 but it is the Assessor's further contention that the applied 'time adjustments' have adequately addressed the differential between the economic conditions existent pre 2009 to those existent post 2009. The Assessor provided (Exhibit R-1 pg. 15) a summary of five (5) sales including the subject property, which they pointed out was a portfolio sale. The time adjusted selling prices per Sq. Ft. range from a low of \$103/Sq. Ft. (the subject) to a high of \$156/Sq. Ft. and show a median of \$127/Sq. Ft. and it is the contention of the Assessor that the sale of the subject appears to be an outlier and that may well be due to the fact that it was a portfolio sale. The Assessor also provided (Exhibit R-1 pg. 14) six (6) equity comparables of similar properties located in the northeast quadrant of the city. These buildings are all similar in size, ranging from 25,287 Sq. Ft. to 39,314 Sq. Ft., which bracket the 35,200 Sq. Ft. subject nicely. The percentage of finished space in these comparables ranged from 5% to a high of 36% and the site coverage ranged from 21% to 46%. The assessed rate per Sq. Ft. of these properties ranged from a low of \$123/Sq. Ft. to a high of \$166/Sq. Ft. and indicated a median of \$148/Sq. Ft. which the Assessor maintains fully supports the assessment of the subject at \$133/Sq. Ft.

Board's Decision:

The assessment is **confirmed** at **\$4,670,000**.

Decision Reasons:

The CARB refers the reader to our recent decision WR 1671-2011-P which outlines the decision regarding the Capitalization Rate Study (Study) presented by the Complainant. In that the CARB has not accepted the conclusions of the Study, the value derived through application of the income approach is also not accepted. The Complainant referenced the Acton Decision (Exhibit C-1 pg. 57) which, essentially, supports the contention that the recent sale of the subject property can often be the best indication as to the value of same. The CARB is not in disagreement with the decision of Madame Justice Acton; however, in the case of the subject property the sale was clearly noted as being a part of a portfolio involving five (5) properties and while the Complainant did provide (Exhibit C-1 pg. 35) a copy of the Affidavit of the Transferee wherein the value of the subject property is indicated to be \$3,843,942., the CARB has no way of knowing how that number was established or for what reason.

The CARB is of the judgment that the sales and equity evidence of the Respondent, in this case, provides better support for the assessed value of the subject than does the evidence of the Complainant support their requested value. The CARB also notes that the request of the Complainant, equating to approximately \$89/Sq. Ft., does not appear reasonable when compared on a dollar /Sq. Ft. basis to any of the comparable sales.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF August 2011.


C. J. Griffin, Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant's Capitalization Rate Study Presented in three (3) parts
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.*