

**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.

**between:**

***First Capital Holdings (ALB) Corporation  
FCR Management Services  
(as represented by Altus Group Ltd.), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***I. Zacharopoulos, PRESIDING OFFICER  
J. Kerrison, MEMBER  
A. Zindler, MEMBER***

[1] 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: 201472594**

**LOCATION ADDRESS: 9608 MACLEOD TR SE**

**HEARING NUMBER: 62912**

**ASSESSMENT: \$3,670,000**

[2] This complaint was heard by a Composite Assessment Review Board on August 15<sup>th</sup>, 2011 at the office of the Board located at 4<sup>th</sup> floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

[3] Appeared on behalf of the Complainant:

- *Mr. A. Izzard* *Altus Group Ltd.*

[4] Appeared on behalf of the Respondent:

- *Mr. R. Ford* *City of Calgary Assessment*

#### **BOARD'S DECISION IN RESPECT OF PROCEDURAL OR JURISDICTIONAL MATTERS:**

[5] There were no procedural or jurisdictional matters before the Board.

[6] Upon review of the parties' documentation the Board found the terms Potential Gross Income (PGI) as per the Complainant and Potential Net Income (PNI) as per the Respondent are in fact indicative of the same determination – that of base income to the property before any adjustments. For ease the Board will adopt one term on an ongoing basis – PGI.

#### **PROPERTY DESCRIPTION:**

[7] The subject property is an improved parcel located at the southeast corner of Macleod Trail and 94<sup>th</sup> Avenue SE, within the Acadia community in SE Calgary. The record shows development is a bank of 7,149 square feet (sf) built circa 2009 on 0.96 acre of land. The assessment is as per the Income Approach to Value (IAV), based on the following parameters:

- PGI: \$307,407
- Vacancy rate: 8.0%
- Operating costs: \$7.00/sf
- Non recoverables: 1%
- Net Operating Income (NOI): \$275,983
- Cap rate: 7.50%

#### **REGARDING BREVITY:**

[8] In the interests of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

#### **MATTERS/ISSUES:**

[9] The matter identified by the Complainant as the basis for this complaint is "an assessment amount". While the Assessment Review Board Complaint form (complaint form) also indicates "an assessment class" to be under question, the Complainant indicated at the

time of the hearing that there was no objection to the tax classification of the subject property.

[10] The Board finds the Complainant has presented the following issues for deliberation:

1. **Has the Complainant established through its equity argument that the PGI should be revised to \$207,321 for assessment purposes for the subject property as of July 1, 2010?**

**COMPLAINANT'S REQUESTED VALUE:**

[11] \$2,460,000 as per Doc C-1, pg 52, based on a revised PGI of \$207,321. The complaint form shows \$2,460,000.

**BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE:**

[12] In addition to the evidence the parties presented at the hearing the Board referenced the Municipal Government Act and associated Regulations in arriving at its decision. We found the following to be particularly applicable to the complaint before us:

- **Municipal Government Act (MGA)** Part 9 and Part 11.
- **Matters Relating to Assessment and Taxation Regulation 220/2004 (MRAT)** Section 1; Part 1 and Part 5.1.
- **Matters Relating to Assessment Complaints Regulation 310/2009 (MRAC)** Division 2 and Schedule 1.

[13] Jurisprudence has established the onus of showing an assessment is incorrect rests with the Complainant. Evidence and argument was put before the Board by the Complainant in that regard; to show the assessment is incorrect and to provide an alternate market value as of July 1, 2010 (see line [12] above). The Board is to determine if (within the direction of the **MGA** and associated Regulations) it has been swayed to find the assessment is incorrect and if the assessment, being a market value determination as of July 1<sup>st</sup> 2010, should be revised.

[14] With regard to the issue identified above the Board's findings are as follows:

1. **Has the Complainant established through its equity argument that the PGI should be revised to \$207,321 for assessment purposes for the subject property as of July 1, 2010?**

[15] The Complainant's PGI request is based on a revision of the rental rate through which the property is assessed from \$43/sf to \$29/sf. The Complainant provided 6 purported comparable bank locations as references for its request (see Doc C-1, pgs 22, 24, 26, 31, 34 and 35).

[16] The Respondent clarified that bank assessments are classification as per the year of construction. Market data was presented in support of the assessed rental rate under R-1, pg 14, showing 19 locations built in 2008 and later with a calculated median rent of \$43/sf.

[17] Upon review of the evidence presented the Board finds the following:

- Both parties have included "pad" as well as commercial retail units within their comparables.
- Neither side has presented sufficient detail as to establish their referenced properties as most comparable to the subject.
- The year of construction for the Complainant's references is shown to range from 1976 to 2001.
- The respondent's lease data includes the subject property; shown to be leased as of April 2009 at a rate of \$48/sf.

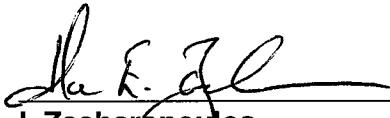
[18] The Board finds comparability has not been established between the Complainant's equity references and the subject. The Board also finds the lease of the subject property has not been refuted and (in combination with the other properties within the Respondent's study) is powerful evidence of market rent.

[19] The Board finds the Complainant has not established through its equity argument that the PGI should be revised to \$207,321 for assessment purposes for the subject property as of July 1, 2010.

**BOARD'S DECISION:**

[20] The assessment is confirmed at \$3,670,000.

DATED AT THE CITY OF CALGARY THIS 7<sup>th</sup> DAY OF October 2011.

  
I. Zacharopoulos  
Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. Doc. C-1	Complainant's Submission
2. Doc. R-1	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.*