

**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:**

***First Street Equities Inc., COMPLAINANT (as represented by Altus Group Limited)***

**and**

***The City of Calgary, RESPONDENT***

**before:**

***J. Dawson, PRESIDING OFFICER***

***R. Kodak, MEMBER***

***J. Mathias, 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:

<b>ROLL NUMBER:</b>	<b>068165794</b>
<b>LOCATION ADDRESS:</b>	<b>1313 - 1 St SE</b>
<b>HEARING NUMBER:</b>	<b>64360</b>
<b>ASSESSMENT:</b>	<b>\$7,170,000</b>

This complaint was heard on the 15<sup>th</sup> day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *D. Genereux*                      *Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

- *J. Toogood*                      Assessor, The City of Calgary

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

No objections on procedure or jurisdiction were raised.

**Property Description:**

The subject property is the former Bernard Callebaut building located south of downtown in the Beltline District with 35,023 square feet of assessable land and one building of 49,557 square feet built in 1995. The building is comprised of 27,955 square feet of above grade office space, 15,047 square feet of below grade office space and 6,555 square feet of retail space. The Direct Sales Comparison Approach was utilized by the Respondent with a land only calculation arriving at a value of \$7,170,000 using \$195.00 per square foot base land rate and adding 5% for corner influence. No value was attributed to the improvement nor has a reduction been calculated to recognize demolition costs.

**Issues:**

The Complainant identified two matters on the complaint form as being incorrect:

1. an assessment amount,
2. an assessment class,

During the review of the complaint form the Complainant confirmed only one matter is to be argued before the Board being an assessment amount. The other matter had been resolved in that there is no disagreement on the class being non-residential. These are the relevant grounds for appeal listed on the complaint form;

- i. The assessment of the subject property is in excess of its market value for assessment purposes.
- ii. The assessment of the subject property is unfair and inequitable considering the assessments of comparable properties.
- iii. The assessment was incorrectly calculated based upon the unfounded assumption that its highest and best use is as development land. This error has resulted in an assessment that is in excess of market value and inequitable compared to similar competing properties. There is no reasonable probability that the redevelopment of the subject would be financially feasible, physically possible and legally permissible as of the relevant assessment dates.

- iv. The Complainant's estimate of value using the income approach suggests that the current assessed value is unfair, inequitable, and incorrect.
  - a. The office rental rate should not exceed \$14.00,
  - b. The below grade rental rate should not exceed \$8.00,
  - c. The retail rental rate should not exceed \$19.00,
  - d. The vacancy rate should not be less than 13.00%, and
  - e. The overall capitalization rate should not be less than 8.5%.

**Complainant's Requested Value:** \$5,390,000 (complaint form)  
\$5,940,000 (disclosure document using 10% vacancy for all building space, 8.50% capitalization rate, \$14.00 office rental rate, \$8.00 below grade office space, and \$20.00 for retail space)

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

Is the assessment of the subject property in excess of its market value for assessment purposes.?

**The Board finds the assessment of the subject property is assessed at market value.**

The Complainant presented a table of 7 comparables on page 49 of their document C1. These comparables were calculated using the Income Approach with no analysis to determine if the underlying land value outstripped the income potential as is the case with the subject site. One of the comparables has a floor area ratio (FAR) calculated in error at nearly 25% of actual FAR and needs to be removed.

The Respondent presented 2 neighbouring comparables on pages 17 through 20 and a 2011 Beltline Non Residential Land Rates map on page 21 of their document R1. Both of these comparables were assessed on the same basis as the subject, at a base rate of \$195 per square foot plus 5% corner adjustment as is the case with the subject site.

The Complainant failed to convince the Board that the land value is incorrect and the Board found the evidence of the Respondent to be more relevant and acceptable.

Is assessment of the subject property unfair and inequitable considering the assessments of comparable properties?

**The Board finds the assessment of the subject property to be fair and equitable.**

The Complainant failed to convince the Board that inequity and unfairness had occurred. The Respondent's comparables were valued the exact same way and are equitable and fair with the subject property.

Was the assessment incorrectly calculated based upon the unfounded assumption that its highest and best use is as development land?

**The Board found the assessment to be at market value and equitable compared to similar competing properties. There is no reason to believe the redevelopment of the subject**

would not be financially feasible, physically impossible and legally impermissible as of the relevant assessment dates

The Complainant's main argument seemed to rely on the young age of the building and redevelopment restraints on the subject's site. The Board found that the subject's site value as land only is appropriate, as it is unlikely that a willing seller would sell, or a willing buyer would buy solely on the current use and income stream and thereby ignore a greater value attainable. It is possible and probable that a willing buyer may purchase the subject property for potential future redevelopment and retain the existing use for many years; however the willing buyer would pay extra for the development potential over and above the current income potential.

Is the Complainant's estimate of value using the income approach fair, equitable, and correct?

**The Board finds the income generating capacity or potential of current improvement use and the market rental rate, when capitalized, is outstripped by the parcel's land as if vacant value.**

**Board's Decision:**

After considering all the evidence and argument before the board, the assessment is confirmed at \$7,170,000.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF SEPTEMBER 2011.

  
\_\_\_\_\_  
J. Dawson  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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.*

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Low Rise	Cost Approach	Land Value
			Income Approach	Net Market Rate