

**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:

Airstate Ltd., 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:

ROLL NUMBER:	100010313
LOCATION ADDRESS:	1209 59 Ave SE
HEARING NUMBER:	64488
ASSESSMENT:	\$8,850,000

This complaint was heard on 17th and 19th days 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:

- S. Sweeny-Cooper Agent, Altus Group Limited
- D. Mewha Agent, Altus Group Limited (observed August 17th, 2011 only)

Appeared on behalf of the Respondent:

- A. Jerome Assessor, The City of Calgary

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

On August 17th the Complainant raised an objection to the evidence package of the Respondent in that it contained no Summary of Testimonial Evidence as required in Matters Relating to Assessment Complaints (MRAC) regulation where it states;

*8(2)(b) the respondent must, at least 14 days before the hearing date,
(i) disclose to the complainant and the composite assessment review Board the documentary evidence, summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing,*

The Board made the decision to recess the hearing until 9:00 AM August 19th, 2011. The Respondent was directed to produce the Summary of Testimonial Evidence to the Complainant by 9:00 AM August 18th, 2011 providing the Complainant ample time to review prior to hearing.

On August 19th the Respondent requested during the hearing to replace page 11 of R1 with the Summary of Testimonial Evidence as requested by the Complainant. The Complainant agreed to the request and the Board accepted the change in evidence.

No further objections on procedure or jurisdiction were raised.

Property Description:

The subject property is located in the southeast neighbourhood of Burns Industrial with 75,214 square feet of assessable land, and one multi-tenanted building with an assessable building area of 56,201 square feet. The subject was built in 1980 of a B quality predominantly used for suburban office space. There are 98 assessable parking stalls on site. The Income Approach was utilized by the Respondent calculating a Net Operating Income (NOI) of \$774,937 using \$15.00 for office rental rate, \$1080.00 for parking rental rate, 8.75% capitalization rate and 10% office and 2% parking vacancy resulting in the current assessment of \$8,850,000.

Issues:

The Complainant identified three matters on the complaint form:

1. assessment amount is incorrect,
2. assessment class is incorrect, and
3. property exemption from taxation

During the review of the complaint form the Complainant confirmed the only matter to be argued before the Board was an assessment amount therefore the two other issues have been resolved. These are the relevant remaining 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 value attributed to the underground parking component is unfair, inequitable and incorrect. The parking produces no more than \$88,200 in gross revenue. The current assessed gross revenue for parking is \$105,840.

Complainant's Requested Value: \$8,210,000 (complaint form)
\$7,720,000 (disclosure document using 10% vacancy,
8.75% capitalization rate and \$13.00 office rental rate)

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 28 lease comparables on page 16 of their document C1. There are several problems with this list; 16 of the comparables are from one complex and outside of the stratification zone used by the Respondent, 12 of the comparables are considered post facto for this valuation period, and some leases were omitted from the table though the Complainant used other leases within the same building(s).

The Respondent presented 22 lease comparables on page 22 of their document R1. There appeared to be problems with 12 leases as they were a great distance from the subject and may not be comparable however they remained within the stratification zone utilized by the Respondent.

On balance the Board found the lease comparables from the Respondent to be more relevant and accepted the \$15.00 assessed lease rate.

Is the 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 did not provide any equity comparables for the Board to consider. The Respondent provided a table on page 23 of their document R1 showing the subject is treated equitably with comparable properties of similar size, condition and age.

Is the value attributed to the underground parking component unfair, inequitable and incorrect?

The Board finds the assessment of the subject's parking component to be fair, equitable and correct.

No evidence was provided from the Complainant other than the statement on the complaint form; *"The parking produces no more than \$88,200 in gross revenue. The current assessed gross revenue for parking is \$105,840."*

The Complainant used the Respondent's value assigned to parking in all the calculations before the Board.

The Respondent provided no evidence in regards to the parking calculation.

Board's Decision:

After considering all the evidence and argument before the Board, the assessment is confirmed at \$8,850,000.

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:**

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	Low Rise	Income Approach	Net Market Rate