

**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:	100015007
LOCATION ADDRESS:	1220 59 Ave SE
HEARING NUMBER:	64636
ASSESSMENT:	\$33,420,000

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.

On August 19th the Respondent requested during the hearing to replace the year "2010" with "2011" in four places on pages 14, 15 and 16 of R1. 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; 382,131 square feet of assessable land, and three multi-tenanted buildings;

- 1) Building one has an assessable building area of 61,209 square feet built in 1979 of a C+ quality predominantly used for office/warehouse space. The Income Approach was utilized by the Respondent calculating a Net Operating Income (NOI) of \$519,007 using \$9.00 for office/warehouse rental rate, 8.75% capitalization rate and 1% for vacancy,

- 2) Building two has an assessable building area of 91,902 square feet built in 1979 of a C+ quality predominantly used for office/warehouse space. The Income Approach was utilized by the Respondent calculating a Net Operating Income (NOI) of \$775,567 using \$9.00 for office/warehouse rental rate, 8.75% capitalization rate and 1% for vacancy, and
- 3) Building 3 has an assessable building area of 101,890 square feet built in 2009 of an A+ quality predominantly used for suburban office space. This building includes 283 assessable parking stalls on site. The Income Approach was utilized by the Respondent calculating a Net Operating Income (NOI) of \$1,476,162 using \$19.00 for office rental rate, \$14.00 for tenant improvement space, \$1080.00 for parking rental rate, 7.50% capitalization rate and 10% vacancy for office and tenant improvement space and 2% vacancy for parking.

These calculations minus a \$1,050,000 tax exemption resulted in a total current assessment of \$33,420,000.

Issues:

The Complainant identified three matters on the complaint form:

1. assessment amount is incorrect,
2. assessment class is incorrect, and
3. type of improvement

During the review of the complaint form the Complainant confirmed that the only two matters are to be argued before the Board were an assessment amount and type of improvement remaining, therefore the other issue has been resolved. These are the relevant remaining grounds for appeal listed on the complaint form;

- i. The assessment of the subject property's suburban office building is in excess of its market value for assessment purposes.
- ii. The assessment of the subject property's suburban office building is unfair and inequitable at \$19,680,000 considering the assessments of comparable properties.
- iii. The property details of the subject property's suburban office building may be incorrect and inconsistent with the characteristics and physical condition as described by Section 289(2) of the Municipal Government Act, R.S.A. 2000, c. M-26.
- iv. The office classification of the subject property's suburban office building may be unfair, inequitable and incorrect.
- v. The current assessment of the subject property's suburban office building does not properly reflect the physical condition of the unfinished space in the subject as of the relevant assessment dates. The tenant improvement cost of bringing this space to market exceeds that allowed for by the current assessment.
- vi. The current assessment of the subject property's suburban office building does not properly adjust for the negative impact to the subject property's market value due to vacancy and the owner's corresponding loss of recoverable expenses.
- vii. The value attributed to the subject property's suburban office building underground parking component is unfair, inequitable and incorrect. The parking vacancy should be higher, the stall rate should be lower and the stall count may be lower.
- viii. The assessment of the subject property's suburban office building may fail to take into account the contributory value of the parking that is already captured in the office rental rate. In effect, the assessment of both the office and the parking may be

- capturing the value of the parking twice.
- ix. The capitalization rate applied to the subject property's suburban office building fails to properly reflect the risk associated with this asset due to its vacancy and the difficulty of leasing the remaining space in the current market environment.
 - x. The Complainant's estimate of value of the subject property's suburban office building using the income approach suggests that the current assessed value is unfair, inequitable and incorrect. Our preliminary recommendations include, but are not limited to, the following changes:
 - a. The suburban office rental rate should be no more than \$19.00/sf,
 - b. The suburban office base building rate should be no more than \$10.00/sf,
 - c. The suburban office vacancy rate should be no less than 30%,
 - d. The suburban parking vacancy rate should be no less than 30%,
 - e. The capitalization rate should be no less than 9.50%,

Complainant's Requested Value: \$21,100,000 (complaint form)
\$27,430,000 (disclosure document - subject property's
suburban office building; 10% vacancy, 7.50% capitalization rate,
\$14.00 office rental rate, and \$9.00 tenant improvement space)

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

Is the assessment of the subject property's suburban office building in excess of its market value for assessment purposes.?

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

The Complainant presented a table of 22 lease comparables on page 31 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, all 22 of the comparables are of inferior quality compared to the subject, and some leases were not typical lease terms or outside of the valuation period.

The Respondent presented 7 lease comparables on page 28 of their document R1. There appeared to be problems with 3 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 \$19.00 assessed lease rate and also found the tenant improvement discounted rate to be fair and reasonable.

Is assessment of the subject property's suburban office building unfair and inequitable at \$19,680,000 considering the assessments of comparable properties?

The Board finds the assessment of the entire 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 29 of their document R1 showing the subject is treated equitably with comparable properties of similar size, condition and age.

Is the property details of the subject property's suburban office building incorrect and inconsistent with the characteristics and physical condition as of December 31, 2010?

The Board finds the property details of the subject's suburban office building to be correct with the characteristics and physical condition as of December 31, 2010.

The Complainant provided no evidence to support this claim.

Is the office classification of the subject property's suburban office building unfair, inequitable and incorrect?

The Board finds the office classification of the subject's suburban office building to be fair, equitable and correct.

The Complainant provided no evidence to support this claim.

Does the current assessment of the subject property's suburban office building properly reflect the physical condition of the unfinished space in the subject as of December 31, 2010?

The Board finds the current assessment of the subject's suburban office building does properly reflect the physical condition of the unfinished space.

The Complainant provided no evidence to support this claim.

Does the current assessment of the subject property's suburban office building properly adjust for the negative impact to the subject property's market value due to vacancy and the owner's corresponding loss of recoverable expenses?

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

The Complainant provided no evidence to support this claim.

Is value attributed to the subject property's suburban office building underground parking component unfair, inequitable and incorrect?

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

The Complainant provided no evidence to support this claim.

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.

Does the assessment of the subject property's suburban office building fail to account for the contributory value of the parking that is already captured in the office rental rate?

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

The Complainant provided no evidence to support this claim.

Does the capitalization rate applied to the subject property's suburban office building fail to properly reflect the risk associated with this asset due to its vacancy and the difficulty of leasing the remaining space in the current market environment?

The Board finds the capitalization rate used by the Respondent in the assessment of the entire subject property to be fair and equitable.

The Complainant provided no evidence to support this claim.

Does the Complainant's estimate of value of the subject property's suburban office building using the income approach suggest that the current assessed value is unfair, inequitable and incorrect?

The Board finds the assessment of the entire subject property to be fair, equitable and correct.

The Complainant provided no evidence to support this claim.

Board's Decision:

After considering all the evidence and argument before the board, the complaint is denied, and the assessment is confirmed at \$33,420,000.

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
	Warehouse	Warehouse Multi-Tenant	Income Approach	Net Market Rate