

**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:

1374054 ALBERTA LTD., (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Glenn, PRESIDING OFFICER

D. Julien, MEMBER

J. Massey, 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:	054013107
LOCATION ADDRESS:	3202 12 AVE NE
HEARING NUMBER:	64305
ASSESSMENT:	\$5,720,000

This complaint was heard on the 17th day of August, 2011 at the offices of the Assessment Review Board which are located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 2.

Appeared on behalf of the Complainant: Christine Van Staden (Agent)

Appeared on behalf of the Respondent: Marcus Berzins (Assessor)

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

No issues of procedure or jurisdiction were raised.

Property Description:

The subject is a 4.73 Acre lot with a 54,905 SF single-tenant warehouse, built in 1979, with 19% interior finish, and a 642 SF single tenant outbuilding, also built in 1979, with no interior finish, providing a total site coverage of 26.49%, located in Franklin Industrial Park.

Issues:

Whether the subject property is properly assessed in light of comparable properties.

Complainant's Requested Value:

\$4,490,000, or \$90/SF

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

This file, along with a number of others was heard on the understanding that the Complainant would argue Capitalization Rate and also Rebuttal once, then those arguments would be applied to all the other files in the series, without having them re-argued. Accordingly, the Cap Rate and Rebuttal portion of the presentation from that first file is reproduced immediately following to assist in understanding the flow of the presentations.

Before proceeding, with the substance of their argument, the Complainant presented an argument regarding their requested Capitalization Rate. The argument presented was protracted, and had been made before other Boards previously. They requested that their argument on Cap Rate and their Rebuttal be applied to all of the files subsequently heard in this series. The Board agreed to do so.

The Complainant presents a large amount of data in support of their Cap Rate argument. A lot of theory is argued by both sides. However, in light of all the information presented by both of the parties, it is apparent that the Complainant's Cap Rate argument has not changed from its previous incarnations (where it is requested that the Cap Rate be set for the subject property at 8.25%). In light of previous decisions on this same Cap Rate argument, as well as what was presented today, the Board finds that the Cap Rate position of the Complainant is not supportable. The Complainant's requested Cap Rate is simply too high

The reason for the Board's rejection of the Complainant's position on their requested Cap Rate is that it is apparent in the calculations they use to support their view, some of the data and the methodology the Complainant employs is flawed. This is especially true where the Complainant mixes actual and typical values in their calculations to come up with the numerical results. In addition, the Respondent queried whether the Complainant used step-ups. This was questioned forth and back during the cross-examination portion of the hearing.

The Complainant argues that the Respondent has not presented any evidence to show that the requested Cap Rate is not correct, therefore the requested Cap rate should be accepted.

The Respondent argues that many Boards have heard the Complainant's current argument on Cap Rates, and they have rejected it. This argument did not sway the Board. However, after hearing the argument advanced by the Complainant on Cap Rate today, the Board is still not convinced that available information supports their requested Cap Rate. At any rate, the Board does not accept the Complainant's requested Cap Rate.

For the actual merit hearing, the Complainant produces 2 sales, 7 equity, and 19 lease comparables. The parties share one sales comparable. They suggest that based on an income approach, a rate of \$90/SF should be applied to the subject property. Their equity comparables suggest that the property value should be \$97/SF.

In cross examination, the Complainant admits that they do not rely on the Respondent's time adjusted sales prices, they merely state them as part of their argument for comparison sake. In summary, the Complainant reiterates that their cap rate evidence shows that their requested cap rate is working correctly. The Complainant argues that the subject is over-assessed by both equity and sales approaches.

The Respondent presents 7 sales, and 0 equity comparables. The median of the Respondent's sales comparables is \$109/SF. They argue that their comparables are much closer to the criteria of the subject property. In cross examination, the Respondent admits that one of its sales comparables is a portfolio sale, but states that they use portfolio sales only if they are broken out, and the details are provided

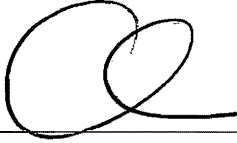
Further, the Respondent again presents information in response to the Complainant's Cap Rate study which demonstrates why it cannot be relied on. The Respondent sums up by saying that both parties have roughly similar buildings for comparables, but because the Complainant is still seeking an assessment of \$90/SF, they are too low.

Information provided by the Respondent shows that the subject property was sold on February 4th, 2008 for \$5,540,000. The time adjusted sale price is \$5,216,000. This is the best indicator of value. Accordingly, the subject assessment is herewith reduced to \$5,210,000.

Board's Decision:

The subject assessment is reduced to \$5,210,000.

DATED AT THE CITY OF CALGARY THIS 20th DAY OF SEPTEMBER, 2011.



R. Glenn
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Cap Rate Analysis
3. C3	Complainant Rebuttal
4. 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.*

For MGB Administrative Use Only

<i>Decision No. 1892-2011-P Roll No. 054013107</i>				
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Warehouse and Outbuilding	Single Tenant	Sales Approach	Market Value