

**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:

Boardwalk Reit Properties Holdings (Alberta) Ltd. (as represented by Altus Group Limited) COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, P. Charuk
Board Member, J. Pratt***

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: 043010412

LOCATION ADDRESS: 1919 - University Drive NW

HEARING NUMBER: 66523

ASSESSMENT: \$58,780,000.

This complaint was heard on the 2nd day of October, 2012 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Three.

Appeared on behalf of the Complainant:

- *J. Weber*

Appeared on behalf of the Respondent:

- *L. Cheng*
- *N. Domenie*

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

- (1) There were no procedural or jurisdictional issues raised by either party.

Property Description:

- (2) The subject is a three and a half storey apartment project, comprised of 12 buildings, located in the University Heights community of north west Calgary. The area is in Market Zone 6. The project contains 397 units, consisting of five bachelor suites, 119 one bedroom units, and 273 two bedroom units. The project was developed in 1977.

Issues:

- (3) The current assessment is based on the income approach to value. The Complainant does not dispute the valuation method. There is no dispute over the number and types of units. There are two issues. The first issue is whether the Gross Income Multiplier (G.I.M.) should be reduced from 11.5 to 11.0 in calculating the 2012 assessment. The second issue is the rents applied to the one and two bedroom units. The City has adopted rents of \$985 per month for the one bedroom units, and \$1,180 for the two bedroom units. The Complainant argues that \$964 and \$1,099 respectively is more appropriate. The Complainant also maintains that a vacancy rate of 5.0 per cent is more appropriate than the 3.8 per cent rate currently being applied.

Complainant's Requested Value: \$52,410,000

Evidence / Argument

- (4) For the G.I.M. argument, the Complainant submitted three low rise apartment transactions that occurred between October 1, 2009, and December 21, 2010. The Complainant applied assessed rents to two of the three properties, and calculated the GIM for each. For the third comparable, the Complainant applied market rents because the property is a strata titled project that is assessed using the sales comparison approach. As such, no assessed rents are available. The GIMs produced by the analysis are 11.14, 10.93, and 10.84. The Complainant also included the calculated GIMs generated by the Altus appraisal division for the same properties. These appeared at 11.22, 10.97, and 11.06.

- (5) The Respondent objected to the inclusion of the property known as Bonaventure Court, at 205 - Heritage Drive SE. The reasons for the objection are that the property was converted to

a condominium in 1988, and the sale was a court ordered transaction. However, the property is still being operated as a rental project. The Board notes that the majority of the public would not be aware of the subject's form of ownership. Nor would the form of ownership affect the property's rentability, or the achievable rents. The actual rents being achieved were identified with a rent roll. As far as the court ordered sale is concerned, the property was listed for sale on the open market for some time prior to the sale. There is no evidence to indicate that the transaction was anything but arms length. The 2010 Alberta Municipal Affairs Manual for recording and reporting information for assessment audit and equalized assessment states as follows;

"..... Sales by lending institutions of repossessed property are generally made at reduced prices and are usually also rejected. However, these sales can be valid if exposed to the open market with a willing seller seeking the highest price." The Board finds that the property was exposed on the open market, and that the transaction was at arms length between a willing seller and a willing buyer. There is no reason that the property should not be used as a rent comparable.

(6) The Respondent submitted four sales in the G.I.M. analysis. Three of the four transactions reflect G.I.M.s between 11.14 and 11.45. The fourth property, at 330 - 2 Avenue NE - reflects a G.I.M. of 14.01. The Complainant argues that the fourth property is an "outlier". Firstly, the property is located in the inner City, and is not reflective of suburban multi-family projects such as the subject. Secondly, the property was acquired by the City of Calgary for social housing, and was not profit driven in the typical sense.

(7) Throughout the proceedings, there was considerable discussion regarding the vacancy allowance used to analyse the income for purposes of calculating the GIM. The Respondent adopted a vacancy ranging from 4.5 to 6.0 per cent, depending on the location. The Complainant, on the other hand, adopted 5.0 per cent throughout, stating that since the GIM analysis was based on effective gross income rather than potential gross income, the vacancy rate was not an issue as long as it was applied consistently.

(8) As for the correct rents to be applied, both parties relied on the rent roll for the subject property for their conclusions. The difference between the parties stems from their respective analysis of the same information.

(9) On the one hand, the Complainant included all of the leases within the subject that have a move-in date in the January, 2011 to July 1, 2011 period. For the one bedroom units, the sampling included 16 of the total 119 units. The Complainant used 34 of the total 273 two bedroom units to support his request. The Complainant argues that these are the most current new leases prior to the effective date of valuation, and therefore reflect current market levels. The median rents reflected are \$964 for the one bedroom units, and \$1,099 for the two bedroom units.

(10) The Respondent, on the other hand, used all of the rents prior to the effective date. It is the Respondent's position that the other leases, with move-in dates before 2011, would have likely been renewed at some point in time, and these leases could be just as current as the 2011 leases, and could be equally reflective of current market levels. The average and median calculate to \$1,005 and \$999 per month for the one bedroom units, and \$1,194 and \$1,249 for the two bedroom units. All of those totals are higher than the rents currently being applied by the City.

(11) The Respondent applied a vacancy rate of 3.8 per cent. The Complainant argued that

5.0 per cent was more appropriate. Neither party submitted any evidential data in support of the vacancy rate used, or requested.

Board's Findings

(12) As far as the vacancy applied to each property in the G.I.M. analysis is concerned, since the GIM is based on Effective Gross Income, the Board cannot agree with the Complainant that the vacancy rate applied has no effect on the results. If the GIM calculations were based on Potential Gross Income, then the vacancy rate applied would have no effect on the results. The Effective Gross Income, however, depends at least partly on the amount of vacancy, which, in turn, has a direct effect on any multiplier that is derived. However, neither party produced any market evidence to either prove or disprove the correct rate of vacancy to be applied.

(13) With one exception, all of the transactions submitted by both parties reflect GIMs between 10.84 and 11.45. For the reasons already mentioned, the Board finds that the transaction involving 330-2 Avenue NE does not reflect typical market behaviour, and should not be used in an analysis.

(14) The average of all of the comparables submitted by both parties, excepting the one that has been excluded, is 11.20. The Board finds that 11.25, or about midway between the two positions, is the most appropriate multiplier.

(15) The Board agrees with the Respondent's position relative to the move-in dates and applicability of rents. In the Board's opinion, all of the rents, not just the 2011 move-in dates, can be considered as current rent levels.

(16) The onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide convincing evidence to justify a change in the assessment. The same applies to any component of an assessment. The Complainant failed to produce any evidence for his vacancy request. That aspect of the Complainant's argument fails.

Board's Decision

(24) The Gross Income Multiplier is reduced to 11.25.

(25) The Board adopts the Respondent's vacancy rate and rent levels for the current assessment.

(26) The assessment is reduced to \$57,510,990. truncated to \$57,510,000.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF November, 2012.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
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| 1. | C2 Evidence Submission of the Complainant |
| 2. | C2 Rebuttal Submission of the Complainant |
| 2. | R1 Respondent Disclosure; Assessment Brief |

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

Decision No. CARB 1936/2012		Roll No. 043010412		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Low rise apartment	Market value	Income	Gross Income Multiplier Rents