

**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:

BPCL Holdings Inc. (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: 065048803

LOCATION ADDRESS: 9 - Hemlock Crescent SW

HEARING NUMBER: 66525

ASSESSMENT: 11,260,000

This complaint was heard on 1 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:

- *N. Domenie*
- *H. Yau*

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

(1) At the request of both parties, the Complaint information for nine properties was read into the record at the outset of the hearing. Both parties agreed and requested that all of the information, evidence, testimony, questions, and answers be carried forward from the first complaint to the remaining eight. The parties declined to have the fact issues dealt with on a file by file basis on the grounds that there was only one issue that would apply regardless of the site specific characteristics of each property. At the request of the Respondent, and because there are various owners involved, a separate decision has been issued for each roll number.

Property Description:

(2) The subject is a low-rise apartment project, comprised of three buildings, located in south west Calgary. The project contains 72 units, consisting of 36 one bedroom units, and 36 two bedroom units. The project was developed in 2002.

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, the rental values assigned to each unit type, or the vacancy rate. The singular issue is whether the Gross Income Multiplier (G.I.M.) should be reduced from 11.5 to 11.0 in calculating the 2012 assessment.

Complainant's Requested Value: \$10,720,000

Evidence / Argument

(4) In calculating the requested G.I.M., 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 property was converted to a condominium in 1988, and the sale was a court ordered transaction. 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. There is no reason that the property should not be used as a rent comparable. 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.

(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 consistently, 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.

Board's Findings

(8) As far as the vacancy applied to each property in the 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. Rather, the opposite is true. If the GIM calculations were based on Potential Gross Income, then the vacancy rate applied would have no effect on the results. However, neither party produced any market evidence to either prove or disprove the correct rate of vacancy to be applied.

(9) With one exception, all of the transactions submitted by either party reflect GIMs between 10.84 and 11.45. For the reasons already mentioned, the Board finds that the transaction involving 330-2 Avenue NE was not typically motivated, and should not be used in an analysis.

(10) 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.

Board's Decision

(11) The Gross Income Multiplier is reduced to 11.25, and the assessment is adjusted accordingly.

(12) The assessment is reduced to \$11,020,000.

DATED AT THE CITY OF CALGARY THIS 29 DAY OF October, 2012.


Jerry Zezulka
Presiding Officer

APPENDIX "A"

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

NO. ITEM

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 1942/2012		Roll No. 065048803		
<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