

**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 2012 Assessment Roll as follows:

ROLL NUMBER: 067069419

LOCATION ADDRESS: 700 - 9 Street SW

HEARING NUMBER: 66478

ASSESSMENT: \$32,870,000

This complaint was heard on the 3rd 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:

- *D. Mehwa*
- *J. Weber*

Appeared on behalf of the Respondent:

- *L. Wong*
- *L. Cheng*

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 residential apartment building containing 26 storeys, with a retail and office component on the main floor, and upper storey office space. The project contains 187 apartment units. There are 4,290 square feet (s.f.) of retail space, and 21,930 s.f. of office space. The project was built circa 1965. The property is in market zone MR-1.

Issues / Appeal Objectives

- (3) The residential portion of the property is currently being assessed using the income approach. The Complainant does not dispute the assessment of the residential portion. The office and retail portion are assessed using the direct sales comparison method. The assessment is equal to \$150 per s.f. for the office space, and \$225 per s.f. for the retail space. For these portions, the Complainant argues that (a) the valuation method is incorrect, and (b) the results of the City's valuation produce an assessment that does not properly reflect market value, and is inequitable with similar properties.

- (4) The current residential assessment amounts to \$29,780,064, or 87.51 per cent of the total. The commercial assessment is \$4,250,700, or 12.49 per cent of the total. The two components produce a total value of \$34,030,764, including a related account of \$1,160,000. The assessment of the account under complaint is \$32,870,764, truncated to \$32,870,000.

Complainant's Requested Value: \$31,030,000. The request would reduce the commercial component to \$2,411,339.

Evidence / Argument

- (4) The basis of the Complainant's argument is that the subject's office and retail component's should be assessed using the income approach, because that is the approach used for the assessment of virtually all office and retail buildings, at least in the downtown core, if not in the entire City. The Complainant would classify the subject as a class C building.

- (5) For the income approach calculations, the Complainant adopted a rent of \$11 per s.f. for

the office portion, and \$15.00 per s.f. for the retail portion. A vacancy shortfall of 15 per cent was applied, along with a 2.0 per cent non-recoverable allowance, and a capitalization rate of 8.00 per cent. The resulting values are \$220,220 for the office, and \$2,598,466 for the retail area, or \$85 and \$130 per s.f. for the office and retail portions respectively.

(6) In support of the income approach calculations, the Complainant submitted a table of 56 rent comparables contained on the City of Calgary Assessment "Table for 2012 Downtown Office C, C-, and D Class Rent Equity Comparables". The mean rent of all of the leases appears at \$12.90 per s.f.. The median is \$12.00 per s.f., and the weighted mean is \$13.35.

(7) The City of Calgary Assessment "2012 Downtown Office Capitalization Rate" table shows the capitalization rate being used by the City for class C buildings to be 8.0 per cent. That is the capitalization rate adopted by the Complainant.

(8) The City of Calgary Assessment "2012 Downtown Office Operating Costs" show operating costs for a class C office building at \$16.00 per s.f., the rate adopted by the Complainant.

(9) For purposes of the equity argument, the Complainant produced ten class C office buildings in zone DT1 that are assessed on the income approach, using the same parameters and inputs used by the Complainant.

(10) The Complainant submitted an additional 25 office buildings in zones DT2, DT3, and DT9 that are assessed on the income approach using largely the same parameters.

(11) Finally, the Complainant submitted five office and retail developments assessed on the basis of the income approach in order to draw a comparison of the assessment results per s.f., compared to the subject. The five buildings are in DT1 and DT2. All five were built between 1954 and 1977. The results of the comparison follows;

<u>Address</u>	<u>Office rent</u>	<u>Assm't Rate per s.f.</u>	<u>Retail rent</u>	<u>Rate per s.f.</u>
600 - 6 Ave. SW	\$11.00	\$85	\$15.00	\$130
840 - 7 Ave. SW	\$11.00	\$85	\$15.00	\$130
1000 - 8 Ave. SW	\$11.00	\$85	\$15.00	\$130
505 - 8 Ave. SW	\$12.00	\$95	\$15.00	\$130
505 - 2 Street SW	\$12.00	\$95	\$15.00	\$130
Subject	N/A.	\$150	N/A	\$225

As would be expected, there is a level of consistency between the assessment rate per s.f. of building, and the rent applied in the income calculations.

(12) The Respondent submitted a number of pages entitled "Rebuttal to Altus Group's Commercial Component Valuation". That submission contained an "Altus Commercial Component Valuation", a "Subject Commercial Rent Roll Analysis", a table of "Comparable Downtown Office and Retail Assessment Rates", the "2011 High Rise Mixed Use Gross Income Multiplier (G.I.M.) Study", and a "2011 Multi-Residential Detail Report" for a property at 835 - 6 Avenue SW.

(13) During testimony, it was revealed that all of the Respondent's submission related to the 2011 assessment year, and not the current year. Notwithstanding that the evidence related to the previous year, none of the comparables contained therein supported the current assessment rates being applied.

(14) None of the written or verbal evidence submitted by the Respondent offered any support for the current method of assessment, or the current assessment rates adopted.

Board's Findings

(15) As for the premise that income capitalization is the preferred method of valuation, this Board will not identify a preference as to which valuation approach should be used to determine the assessed value of any property. It is only the value that this Board is authorized to adjudicate. If any party can satisfy the Board, to the extent required by law, that in application of any applied approach to value errors have been made that have resulted in an incorrect assessed value, then it is those errors, supported by market based evidence, that should be given consideration. That is not to say that an alternative method of valuation cannot be applied. However, any alternative method must be as equally well founded in market evidence as the method already being employed.

(16) Having said that, the assessment complaint procedure provides the opportunity to both parties to present evidence and arguments in support of their positions. The burden of proof or onus initially rests on the Complainant to convince the Board that their arguments, facts and evidence are more credible than that of the Respondent. In other words, the onus rests with the Complainant to provide sufficient convincing evidence to prove that their allegation is well founded. In the Board's opinion, the Complainant has provided enough evidence to cast doubt on the validity of the conclusion drawn in the assessment calculations.

(17) Once a doubt has been created or established, the onus now shifts to the Respondent to provide sufficient evidence to demonstrate to the Board that no error in methodology or value conclusion exists. In the opinion of the board, the Respondent has failed to do that.

(18) Having regard to the evidence submitted, this Board can only conclude that the current assessment is based on arbitrary amounts that have no basis in fact, and cannot be supported by market evidence.

Board's Decision

(19) Based on the evidence submitted by both parties, it is the Board's opinion that the Complainant's income approach calculations provide for a more reasonable reflection of market value of the commercial component, and produce an assessment of the total property that is fair and equitable with similar properties.

(20) The assessment of the commercial component is reduced to \$2,411,399, producing a total assessment of \$32,191,463, including the related account of \$1,160,000. The reduction alters the ratio of residential and non-residential components to 92.51 and 7.49 per cent respectively.

(20) Excluding the related account, the amended assessment calculates to \$31,031,463, truncated to \$31,030,000.

DATED AT THE CITY OF CALGARY THIS 15 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. | C1; Evidence submission of the Complainant |
| 2. | R1 Evidence Submission of the Respondent |

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.*

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Decision No. 1946/2012 - P		Roll No. 067069419		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail & office	Income approach v sales comparison	Evidence	Onus