

**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:

**1678822 Alberta Inc.
(as represented by Altus Group Limited), COMPLAINANT**

and

The City of Calgary, RESPONDENT

before:

**J. Dawson, PRESIDING OFFICER
S. Rourke, MEMBER
A. Zindler, MEMBER**

This is a complaint to the Calgary Composite Assessment Review Board [CARB] 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:	101049500
LOCATION ADDRESS:	5720 4 Street SE
LEGAL DESCRIPTION:	Plan 9711673; Block 1; Lot 18
HEARING NUMBER:	68314
ASSESSMENT:	\$ 4,630,000

- [1] This complaint was heard on the 4 day of October, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 1.
- [2] Appeared on behalf of the Complainant:
- R. Worthington Agent, Altus Group Limited
- [3] Appeared on behalf of the Respondent:
- J. Greer Assessor, City of Calgary

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

Preliminary Issue 1 - Property owner:

- [4] Prior to the hearing, on October 2, the Board discovered the hearing sheets produced by the clerk for this hearing, showed 1678822 Alberta Inc. as the taxpayer and assessed person; whereas, the Property Assessment Notice, Assessment Review Board Complaint, and Assessment Complaints Agent Authorization forms listed Cana Holdings Ltd. as the taxpayer and assessed person.
- [5] The Complainant nor the Respondent were aware of 1678822 Alberta Inc. The Board sought clarification from the clerk and was provided information that the property had transferred ownership in August of 2012.
- [6] The complaint remained valid as per section 478 of *the Act*; however, the taxpayer or assessed person was not properly before the Board. The Complainant was requested to establish agency.
- [7] The Complainant established that the transfer was non-arm's length and occurred between related parties. This satisfied the Board that the agent had established agency. Subsequent to that decision an Assessment Complaints Agent Authorization form was produced showing the agent as authorized by the taxpayer and assessed person, 1678822 Alberta Inc.

Preliminary Issue 2 - Evidence:

- [8] The Complainant and the Respondent requested to bring forward all evidence, comments, questions, and answers articulated during previous hearings, and heard before this Board to this hearing: CARB 1952/2012-P, CARB 1953/2012-P, CARB 1955/2012-P, CARB 1961/2012-P, CARB 1960/2012-P, CARB 1957/2012-P, CARB 1958/2012-P, and CARB 1959/2012-P.
- [9] **The Board determined, from the following listed decisions: CARB 1952/2012-P, CARB 1953/2012-P, CARB 1955/2012-P, CARB 1961/2012-P, CARB 1960/2012-P, CARB 1957/2012-P, CARB 1958/2012-P, and CARB 1959/2012-P, that all evidence, comments, questions, and answers, is to be brought forward and incorporated just as if it were presented during this hearing.**
- [10] No additional procedural or jurisdictional matters were raised.

SECTION B: Issues of Merit

Background:

- [11] The Board heard that the primary concern of the Complainant is equity with additional concerns on the methodology and assumptions made by the Respondent. The Respondent publishes a document to explain the predominate criteria for adjusting properties to arrive at their assessment. This document varies depending on the stratification of the subject property, in this case, the document utilised is "*Assessment Range of Key Factors, Components and Variables – 2012 Industrial*". The Act section 289(2)(a) is referenced by the Complainant to establish that the physical characteristics and condition as of December 31 are the determinate factors with a valuation date of July 1 as found in Matters Relating to Assessment and Taxation [MRAT] regulation section 3. The Complainant contends that the Respondent is speculating on what the property might sell for if a purchaser changed the property in one manner or another.

Property Description:

- [12] Constructed in 1961, the subject – 5720 4 Street SE, contains two buildings; 1) a two-storey, single-tenant industrial warehouse building with developed basement space; and 2) a warehouse structure of 9,040 square feet that is deemed to be an outbuilding. In the industrial stratification the Respondent does not assess any basement space or mezzanine storage space. Mezzanine office space is assessed. The subject has 25,029 square feet of assessable area with a footprint of 18,556 square feet. There is 81% office finish in the assessed area. The subject is located one block north of 58 Avenue SE and two blocks west of Blackfoot Trail in an area known as Manchester Industrial with a non-residential sub-market zone [NRZ] of SM3.
- [13] The Respondent prepared the assessment showing site coverage of 10.71% with an 18,556 square foot building footprint and assessable building area of 25,029 square feet. The building is graded as a 'C-' quality and assessed at \$181.64 per square foot. The outbuilding does not calculate into site coverage and its 9,040 square feet is assessed at \$10 per square foot. The land parcel is comprised of 3.98 acres, which calculates to 1.87 acres of extra land. Typically, industrial warehouses have 30% site coverage.

Matters and Issues:

- [14] The Complainant identified two matters on the complaint form:
- Matter #3 - an assessment amount*
Matter #4 - an assessment class
- [15] Following the hearing, the Board met and discerned that these are the relevant questions which needed to be answered within this decision:
1. *What is the correct method for calculating extra land?*
 2. *What is the correct method for calculating assessment of second floor space?*
 3. *Is the subject assessment equitable with comparable properties?*

Complainant's Requested Value:

- \$3,740,000 on complaint form
- \$3,550,000 and \$3,640,000 within disclosure document, and
- \$3,640,000 confirmed at the hearing as the request

Board's Decision in Respect of Each Matter or Issue:***Matter #3 - an assessment amount*****Question 1 What is the correct method for calculating extra land?****Complainant's position**

- [16] The Complainant explained how the Respondent determined and calculated values for extra land. (C1 pp. 4-10 and 55) In short; property with less than 30% site coverage and where subdivision of land is not possible because of building placement is considered excess and the extra land is valued at 60% of serviced land rates; property with less than 30% site coverage and where subdivision is deemed possible is considered additional and calculated at 100% of serviced land value.
- [17] The Complainant established factual information of the subject:
- 1) Land area of 173,299 square feet or 3.98 acres, and extra land area of 1.87 acres (81,382 square feet). (C1 pp. 19-20)
 - 2) Footprint of 18,556 square feet, total building area of 33,382 square feet, and assessable building area of 25,029 square feet. (C1 pp. 19, 20 and 71)
 - 3) Outbuilding footprint and assessable area of 9,040 square feet. (C1 p. 20)
 - 4) Site coverage calculation of 10.71%. (C1 p. 20)
 - 5) Raw serviced land value for southeast industrial general is \$525,000 per acre (calculates to \$12.05 per square foot). (C1 p. 53)
- [18] The Complainant articulated that based on the methodology employed by the Respondent and the provisions permitted within the land use designation [*LUD*], that the subject property is effectively calculating a larger area of extra land than comparable properties without a mezzanine. The Complainant reviewed the variables provided by the Respondent making note of the site coverage key factor. (C1 p. 49)
- [19] The Complainant showed the Board that the site coverage can be calculated by dividing the footprint by the total land area, $18,556/173,299 = 10.71\%$. Through questioning and as evidenced on the Assessment Explanation Supplement [*AES*], the Respondent confirmed that; a) the value per square foot is based on the assessable building area rather than the footprint, and b) any value attributed to the extra land is included within the rate per square foot when it is deemed excess and is articulated separately on the *AES* under land adjustment when the extra land is deemed to be additional.
- [20] The Complainant argues that because the entire assessable square footage is not being considered when determining extra land that the assessed value for the property is overstated. This double assessment results in an over assessment of \$156,029 based on calculation

differences of \$806,413 and \$650,384 (C1 p. 9).

Respondent's position

- [21] The Respondent placed most of their attention to other areas in dispute and provided this paragraph in response; *"The complainant claims that the site coverage value for the subject property is incorrect, but the complainant completely misrepresents the use by, and definition of, the Assessment Business Unit of the term 'Site Coverage' in determining this erroneous result."* (R1 p. 3)
- [22] Site Coverage is defined by the Respondent as; *"the ratio of total building footprint, excluding outbuildings, to total parcel size for any property"*. Excess Land is defined by the Respondent as; *"the difference between non-sub dividable property's actual parcel size and the typical parcel size and the typical parcel size that would be expected in order to accommodate the existing improvements"*. (R1 p. 32)
- [23] The Respondent verbally indicated that the Complainant's view on site coverage is not shared by the Respondent. The site coverage calculation captures the value of the land.
- [24] The Respondent currently provides the AES in a format shown here (C1 p. 20):

Item Number	Item Type	Foot Print	Assessable Area	Actual Year of Construction	Finish Percentage	Site Coverage Percentage	Assessed Rate per square foot	Land Adjustment Type	Land Adjustment Rate per square foot	Assessment
1	IWM Total	18556	25029	1961	81.0%	10.7%	\$181.64			\$4,546,235
2	IOBS Total	9040	9040							\$90,400
	Total Assessment									\$4,636,635

Board's findings

- [25] The Board finds that the Complainant has not misrepresented the subject during this hearing. The Complainant is making their best efforts to clearly understand the assessment and represent the client as best they can.
- [26] The Board finds that the information provided to taxpayers and assessed persons within the AES is not sufficient to show how the Respondent prepared the assessment of that person's property. Definition of terms should be provided along with a full explanation of what is assessable and what is not assessable with reasons why.
- [27] Within the subject property there is a total of 43,142 square feet of development; 20,088 square feet of office, 3,107 square feet of storage, and 19,947 square feet of warehouse space. The warehouse is assessed at \$181.64 per square foot for 10,187 square feet, \$10 for 9,040 square feet, and \$0 for 720 square feet. The office is assessed at \$181.64 for 14,842 square feet, and \$0 for 5,426 square feet. All second floor and basement storage space is assessed at \$0 per

square foot. (C1 pp. 71-72)

[28] The Board finds the *AES* does not clearly show the taxpayer or assessed person the total building areas, how they have been assessed, and why they have been assessed the way they have been.

[29] The Board finds the *AES* format below is more transparent and understandable:

Item Number	Item Type	Foot Print	Finished Area	Assessable Area	Actual Year of Construction	Finish Percentage	Site Coverage Percentage	Assessed Rate per square foot	Land Adjustment Type	Land Adjustment Rate per square foot	Assessment
	Total Land	173299					100.0%				
1-G	IWM Ground	18556	8369	18556	1961	45.1%	10.7%	\$158.15			\$2,934,631
1-B	IWM Basement	7413	5246	0	1961	70.8%		\$0			\$0
1-M	IWM Mezzanine	7413	6473	6473	1961	87.3%		\$158.15			\$1,023,705
1	IWM Total	18556	20088	25029		81.0%	10.7%				
2-G	IOBS	9040	0	9040	1961	0.0%		\$10			\$90,400
2	IOBS Total	9040	0	9040	1961	0.0%					
	Land Required at Typical 30% Coverage	91987									
	Extra Land (Total Land less Land Required)	81312							Excess	\$7.23	\$588,002
	Total Assessment										\$4,636,738

[30] The Board finds that combined with definitions, the above *AES* explains the total area and which areas are assessed. It also clearly values the extra land and shows the real value of building area. With this additional information the Complainant can better understand their assessment and compare their property more appropriately.

[31] The Board finds the finish area described on the *AES* is incorrect. The Board calculates an actual finish area of total building space of 60.2%, and of assessable area of 59.3%. The Board cannot seem to find any scenario which calculates to 81.0%. Whereas office finish is a key factor or variable, it would appear that the Respondent calculated an incorrect assessment. The Board was not provided with any information on how to recalculate this discrepancy and is forced to guess on a figure or accept the request of the Complainant.

[32] The Board finds the calculation created by the Complainant for excess land is done in error. (C1 p. 9) The Board reviewed the *AES* and notes the extra land is at 1.87 acres or 81,312 square feet and this figure is consistent when giving regard to the definition provided by the Respondent. Using the \$525,000 per acre and discounting for excess land versus additional land, the Board calculates excess land value of \$588,802.

[33] **The Board finds that the extra land calculation employed by the Respondent is correct. Mezzanine does not factor into the extra land calculation; the Complainant is capable of**

greater overall development of the site and the current method utilized by the Respondent recognizes that fact adequately.

Question 2 What is the correct method for calculating assessment of second floor space?

Complainant's position

- [34] The Complainant articulated that based on the methodology employed by the Respondent that the subject property is effectively being assessed twice for land on the square footage attributed to the mezzanine level.
- [35] The Complainant argues that because the value per square foot for assessment purposes includes value for the land, that the assessable mezzanine area of 6,473 square feet is essentially being assessed twice for the land.

Respondent's position

- [36] The Respondent failed to address this concern raised by the Complainant.
- [37] Mezzanine is defined by the Respondent as; *"a permanent or semi-permanent intermediate storey set between two main storeys of a structure that allows for additional but restricted utility"*. (R1 p. 32)
- [38] The Respondent provided equity comparison charts showing the footprint and assessed floor area. (R1 pp. 16-17). In the sales comparison chart, the footprint is not presented. (R1 p. 14)

Board's findings

- [39] The Board finds the second floor space within the subject does not fit the definition provided by the Respondent for mezzanine space. No information was provided by the Respondent for the Board to understand how second floor space is assessed and how that differs from mezzanine space, basement space or ground level space. The information is that mezzanine and ground level space is assessed at the same value. The Board is unable to quantify values for assessment of second floor space.
- [40] The equity and sales charts provided by the Respondent clearly show only consideration for assessed areas when calculating property values. The Board finds that when mixing ground floor space with mezzanine or second floor space to calculate a common value creates somewhat of an inequity. Utilizing this methodology means that ground level areas overall are slightly under assessed while the mezzanine or second floor space becomes over assessed by a considerable value.
- [41] **The Board finds the serviced land value for industrial general land must be deducted from mezzanine or not at grade space in order to prevent double assessing of land area for properties with mezzanine or other not at grade space. Using \$525,000 per acre for serviced land derives a value of \$12.05 per square foot of over assessment of mezzanine**

and other not at grade space.

Question 3 Is the subject assessment equitable with comparable properties?

Complainant's position

- [42] The Complainant raised the issue of equity and provided six comparables showing a median of \$137 per square foot for assessment purposes. (C1 p. 8) One comparable was removed because the Complainant realized the land use designation was not similar. The median rate remained at \$137 per square foot.
- [43] The Complainant established through questioning and past *CARB* decisions that site area was the single greatest key factor to establish the correct value of adjustments. (C1 p. 4) The chart provided by the Assessment Business Unit of the City of Calgary demonstrated seven key factors with variations. No values are provided to establish the coefficients. (C1 p. 49)

Respondent's position

- [44] The Respondent provided two equity charts with seven comparables each arriving at \$151.71 and \$168.80 for medians. Of the fourteen total equity comparables, according to the Complainant, five were not valid due to the age of the improvements. Two of the comparables supported the position of the Complainant. (R1 pp. 16-17)
- [45] The Respondent re-presented the Complainant's equity chart, correcting for calculation and area errors, arriving at a value of \$138.64 per square foot. (R1 p. 20)
- [46] The Respondent refused to provide the Board information on how to properly calculate the assessment in order to compare the key factors with comparables. The coefficients are not required to be provided as per *MRAT*, section 27.3(2).

Board's findings

- [47] The Board found that due to factual errors with the assessment, it could not accept the Respondent's equity comparables and found the re-presented equity comparables of the Complainant are the best representation of value for the subject. The Board would have corrected the factual errors with the assessment; however, the Respondent refused to provide the Board the information necessary to properly recalculate the assessment – the coefficients.
- [48] The Board finds \$138.64 per square foot to be the correct value for the ground level space and the resultant \$126.59 per square foot to be the correct value for mezzanine or above ground, not at grade space.
- [49] **The Board adjusted the *AES* to recognize the decisions of the Board, correcting for a calculation error in the finish area, and an error related to categorizing of mezzanine versus above ground, not at grade space:**

Item Number	Item Type	Foot Print	Finished Area	Assessable Area	Actual Year of Construction	Finish Percentage	Site Coverage Percentage	Assessed Rate per square foot	Land Adjustment Type	Land Adjustment Rate per square foot	Assessment
	Total Land	173299					100.0%				
1-G	IWM - Ground	18556	8369	18556		45.1%	10.7%	\$138.64			\$2,572,604
1-B	IWM - Basement	7413	5246	0		70.8%		\$0			\$0
1-M	IWM - Mezzanine	0	0	0		0.0%		\$126.59			\$0
1-AG	IWM - Above Grade	7413	6473	6473		87.3%		\$126.59			\$819,417
1	IWM Total	18556	20088	25029	1961	59.3%	10.7%				
2-G	IOBS - Ground	9760	0	9040		0.0%		\$10			\$90,400
2	IOBS Total	9760	0	9040	1961	0.0%					
	Land Required	91987									
	Extra Land	81312							Excess	\$7.23	\$588,002
	Total Assessment										\$3,989,063

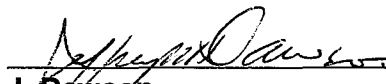
Matter #4 - an assessment class

- [50] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

Board's Decision:

- [51] After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to a truncated value of \$3,980,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF November 2012.


J. Dawson
 Presiding Officer

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

NO.	ITEM
1.	C1 Complainant Disclosure – 102 pages
2.	R1 Respondent Disclosure – 34 pages
3.	C2 Rebuttal Disclosure – 14 pages
4.	C3 Additional Rebuttal Disclosure – 5 pages
5.	C4 Proof of Agency – 5 pages

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.*

APPENDIX "B"**LEGISLATION****The Municipal Government Act [*the Act*]**

Chapter M-26, Section 460, Revised Statutes of Alberta 2000

Right to continue proceedings

- 478** *A person who becomes an assessed person or taxpayer in respect of a property or business when a complaint about the property or business is being dealt with under this Part may become a party to any proceedings started by the previous assessed person or taxpayer.*

1994 cM-26.1 s478

Matters Relating to Assessment and Taxation [MRAT]

Alberta Regulation 220/2004 with amendments up to and including Alberta Regulation 330/2009

Definitions**Key factors and variables of valuation model**

- 27.3(1)** *For the purposes of sections 299(1.1)(b) and 300(1.1)(d) of the Act, the key factors and variables of the valuation model applied in preparing the assessment of a property include*
- (a) descriptors and codes for variables used in the valuation model,*
 - (b) where there is a range of descriptors or codes for a variable, the range and what descriptor and code was applied to the property, and*
 - (c) any adjustments that were made outside the value of the variables used in the valuation model that affect the assessment of the property.*
- (2)** *Despite subsection (1), information that is required to be provided under section 299 or 300 of the Act does not include coefficients.*

AR 330/2009 s5

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Warehouse Single Tenant	Cost/Sales Approach	Land Value
				Equity