

**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:

**HOMBURG L.P. MANAGEMENT INCORPORATED,
(as represented by Altus Group Inc.),
COMPLAINANT**

and

**THE CITY OF CALGARY,
RESPONDENT**

before:

**R. Glenn, PRESIDING OFFICER
R. Kodak, MEMBER
D. Cochrane, 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 2012 Assessment Roll as follows:

ROLL NUMBER:	201085834
LOCATION ADDRESS:	1235 11 Ave SW
FILE NUMBER:	66665
ASSESSMENT:	\$20,770,000

This complaint was heard on Tuesday, the 9th day of October, 2012 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 3.

Appeared on behalf of the Complainant:

- D. Genereaux, as agent for Altus Group Inc.

Appeared on behalf of the Respondent:

- A. Czechowskyj, as assessor for the City of Calgary

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

[1] There were no issues of procedure or jurisdiction raised by either of the parties at the hearing.

Property Description:

[2] The subject property is a halted multi-residential condo project in the Beltline district, located at 1235 11Ave SW, and is on the northeast corner of 11th Ave and 12th St SW. Originally planned as a 476 unit two tower residential condominium, a downturn in the economy forced the development to a halt. Essentially, the property now consists of an incomplete underground concrete parking structure built up to ground level, but apparently, still not in usable form.

Issues:

[3] Whether the subject property:

- [a] should be adjusted by 25% for functional and external obsolescence?
- [b] should be adjusted based upon percentage of completion applied to permit value?
- [c] should have the 5% corner influence removed and only apply to less than 100% of the titled parcel?

Complainant's Requested Value:

[4] \$13,050,000

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

Complainant's Position:

[5] The Complainant submits that the subject property has gone through many challenges since its inception in 2006, and suffers from both functional and external obsolescence. When a downturn in the economy forced the development of the two tower plan to a halt, alternative plans were to construct a one tower mixed use condo project to comply with the updated land use plans set in place for the Beltline.

[6] They say that this again was deemed not feasible, so, plans for a more affordable 376 unit rental apartment tower with ground floor retail were sent to the City with approval. Construction had thus begun with concrete and foundations set in place for a residential tower consisting of smaller units. Once again, external forces have halted the further development of this site, and it currently sits as a partially complete but still unusable concrete parkade.

[7] The Complainant argues that the subject property is now suffering from functional obsolescence as the plans cannot be altered since the parkade and floor plan have since been put in place for rental apartments. They further argue that external obsolescence is also evident as outside forces have prevented the completion of development due to financial implications as well as the demand for such a development.

[8] The Complainant further argues that they should not have to bear the brunt of paying taxes comparable to full market value, as the subject property situation is clearly atypical and the subject will continue to suffer in its current state. They say that the subject cannot readily be sold in its current condition, as the current floor plate will not adhere to office or multi-tower residential. They opine that as of December 31st, 2011, the costs to "cure" the subject outweighs the benefits, and therefore a substantial reduction in assessed market value is necessary.

[9] The Complainant also argues that the subject property's supplemental assessment is over-assessed, based on the 17.5% captured in the permit value. They put forward a 2011 supplementary assessment showing that 10% of the total permit was captured. They claim that an additional 7.5% increase in the permit value is not justified for the 2012 assessment. They also argue that the correct percentage of permit cost value is 8.1%, based on Marshall and Swift calculations.

[10] The Complainant further queries whether the 5% corner influence adjustment should be applied to all 42,216 SF of land. They argue that it is not equitable when looking at other similar parcels of land, and that only 5,186 SF of land should be attributed the 5% corner lot influence, based on the fact that the current title is actually 7 separate titles consolidated into one title for the present purpose. Based on this understanding, the Complainant queries whether all of the property titles which were consolidated actually receive a benefit from the corner influence.

Respondent's Position:

[11] The Respondent suggests that the Complainant's request for a 25% reduction in the subject assessment is without a proper basis. Noting that the assessment is \$20,770,000 or \$155/SF of land plus 17.5% of permit value, the Respondent argues that the Complainant is relying on the sale of a vacant land property at 1515 12 St SW as the basis of the land value complaint and has requested a 25% adjustment downwards based on the condition of the subject property. They say the Complainant provides no market evidence to support their assertion of a 25% downward adjustment.

[12] The Respondent argues that the Marshall & Swift material relied on by the Complainant

was published in September 2008, therefore it became obsolete in August of 2010, and so is not applicable to the subject situation. They also note that the percentage requested is based on a 10 to 40 unit, 1 to 3 storey, wood frame building.

[13] The Respondent's response to the 5% corner influence issue is simply that the subject property is now a single titled parcel, and not individually titled like the Complainant's comparables.

Board's Decision:

[15] The Board notes there is simply no relevant market evidence from the Complainant. The argument which the Complainant presents is voluminous, but not substantial. The business situation which the Complainant finds itself in is unfortunate, but the Complainant does not provide enough actual substantive evidence to properly demonstrate to the Board that the subject assessment is not correct. Therefore, the assessment must be confirmed.

[16] The subject assessment is herewith confirmed in the amount of \$20,770,000.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF NOVEMBER, 2012.



R.Glenn, Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. 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.*

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<i>Decision No.2096-2012-P Roll No.201085834</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	Office Building	Equity	Income Approach	Market Value