

**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:

BCIMC Realty Corporation (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

J. Rankin, MEMBER

A. Blake, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	200592889
LOCATION ADDRESS:	5000 64 AV SE
HEARING NUMBER:	64694
ASSESSMENT:	\$21,360,000

This complaint was heard on the 31st day of Aug, the 1st day of Sept. and the 9th day of Nov., 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1 (Aug 31. & Sept. 1) and Boardroom 5 (Nov. 9)

Appeared on behalf of the Complainant:

- Mr. J. Smiley (Altus Group Limited)

Appeared on behalf of the Respondent:

- Mr. I. Baigent

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

There were no concerns with the composition of the Board.

There were no preliminary matters. The merit hearing proceeded.

During the presentation of the Complainant's evidence it came to the attention of the parties that an Amended Property Assessment Notice for \$19,920,000 had been issued on March 17, 2011.

The Respondent inquired as to what assessment amount was properly before the Board. After a brief recess the Board determined that:

1. The 2011 Property Assessment Notice was issued January 4, 2011 for \$21,360,000.
2. The Assessment Review Board Complaint Form was filed on March 6, 2011.
3. The "Amended" 2011 Property Assessment Notice was mailed on March 17, 2011.

After a review of the Legislation, the Board ruled that The Municipal Government Act (MGA) applies, specifically:

305(5) If a complaint has been made under section 460 or 488 about an assessed property, the assessor must not correct or change the assessment roll in respect of that property, until a decision of an assessment review board or the Municipal Government Board, as the case may be, has been rendered or the complaint has been withdrawn, and as a result the Amended 2011 Property Assessment Notice is not valid, and therefore the assessment amount that is properly before the Board is \$21,360,000.

The Board asked the parties if they were prepared to continue on that basis. The Respondent noted that the Complainant had prepared his evidence based on the Amended Notice and that in the interest of fairness should be allowed to resubmit his evidence. The Complainant verbally requested a postponement to allow time to prepare a new submission. The Complainant was directed to provide his request in writing for consideration by the Board at 9:00 A.M. on the following morning (Sept. 1, 2011). The hearing adjourned.

The hearing reconvened on Sept. 1, 2011 at which time the Complainant submitted "REQUEST TO ADJOURN HEARING NUMBER 64694" labelled C-3. After hearing from both the Complainant and the Respondent, the Board retired to consider the request. Upon reconvening the Board provided the following oral decision:

"The Board has determined that this is a preliminary matter discovered during the course of the merit hearing and we are issuing a decision on the preliminary matter only. The matter is a request for adjournment predicated on the Complainant's preparation for a hearing based on an invalid Amended 2011 Property Assessment Notice, issued by the

Respondent. The Complainant has argued that to proceed with the merit hearing would prejudice his ability to fully answer or challenge the original assessment amount, given the evidence package of the Complainant speaks to the amended amount. Both parties have requested that the matter be resolved fairly.

In the interest of fairness, the Board agrees and allows the adjournment and the expansion of time for further evidence on the original grounds for appeal on the Assessment Review Board Complaint Form filed on Mar. 17, 2011. Accordingly, Hearing 64694 is adjourned to 9:00 A.M. on Nov. 9, 2011 at the offices of the Assessment Review Board."

The merit hearing reconvened on Nov. 9, 2011 at 9:00 A.M.

Property Description:

The subject property is a 8.96 acre parcel located in the Foothills Industrial community in SE Calgary. The site is multi improved with 4 multitenant warehouses that were constructed in 2005. The warehouses contain 50,888 square feet (sf), 52,359 sf, 37,667 sf and 36,312 sf of rentable building area respectively. The subject is assessed at rates of \$119.00 psf, \$119.61 psf, \$121.98 psf and \$122.08 psf, utilizing the Direct Sales Comparison Approach to Value.

Issues:

The Assessment Review Board Complaint Form contained 11 grounds for appeal. At the outset of the hearing the Complainant advised that the only outstanding issue was equity.

Complainant's Requested Value: \$15,200,000 (Complaint Form)
\$17,410,000 (\$17,722,600 less exemption of \$305,250)

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

Issue Equity

The Complainant's Disclosure is labelled C-2 which replaced C-1 from Aug. 31st.

The Complainant, at page 12, provided 6 Equity Comparables with similar Total Net Rentable Area, site coverage and %finish as the subject. The Assessment per SF ranged from \$78 to \$115 psf. The Complainant argued that the subject is most appropriately valued at between \$93 and \$107 psf. The Complainant noted the subject is a larger building than 5498 76 AV SE, but has slightly less site coverage and is a few years newer. Further, the subject is a fair amount smaller than the property at 2880 45 AV SE, but has significantly higher site coverage. The Complainant submitted the most probable value for the subject is \$100 psf in support of his request for an assessed market value of \$17,722,600. The Complainant further submitted the value of the "exempt" portion of the property would be \$305,250 when prorated over a partial (25%) year resulting in an assessed value of \$17,410,000..

The Complainant argued the subject has been inequitably assessed on the basis that the City has valued the four buildings on the site as though each was on its own independent parcel and that whatever adjustment the City makes (for multi improved) does not properly bring the assessment to an equitable level.

The Respondent's Disclosure is labelled R-1.

The Respondent, at page 9, advised there is a portion of the property assessment in the amount of \$1,440,000 exempt from taxation that should be removed from this assessment resulting in a revised assessment of \$19,920,000.

The Respondent, at page 13, provided 2011 Industrial Equity Comparables which contained 7 equity comparables with Rate per SF ranging from \$123 to \$146. The Respondent noted that the property at 4792 50 AVE SE was almost identical to the subject and it was being assessed at \$123 psf. The Respondent further noted that the property at 2331 50 AV SE, which was multi improved, smaller sized parcel, slightly newer and with higher %finish than the subject was assessed at \$131 psf.

The Respondent, at page 33, noted the Complainant's Equity Comparable at 2880 45 AV SE with a Rate per SF of \$129 was an excellent comparable and supportive of the assessed rate for the subject of \$121 psf.

The Respondent argued the Complainant had not met onus as no market evidence had been provided.

The Board finds:

1. The Complainant's request for an assessment rate of \$100 psf on the aggregate net rentable area is not supported.
2. The assessed market value is \$21,360,000.
3. The Exemption to be deducted is \$1,440,000 resulting in an assessed value of \$19,920,000.

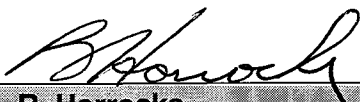
Board's Decision:

The 2011 assessment is reduced to \$19,920,000.

Reasons

No market evidence was provided by the Complainant to establish the market value of the subject.

DATED AT THE CITY OF CALGARY THIS 29 DAY OF November 2011.


B. Horrocks
Presiding Officer

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

NO.	ITEM
1. C2	Complainant Disclosure (replaces C-1)
2. C3	Complainant Request for Postponement
3. 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.*

FOR ADMINISTRATIVE USE

<i>Subject</i>	<i>Property Type</i>	<i>Property Sub - Type</i>	<i>Issue</i>	<i>Sub - Issue</i>
<i>CARB</i>	<i>Warehouse</i>	<i>Multi tenant</i>	<i>Direct Sales Approach</i>	<i>Equity</i>