

## CALGARY ASSESSMENT REVIEW BOARD DECISION WITH REASONS

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 ("MGA").

between:

***BPCL Holdings Inc.; Boardwalk Reit Properties Holdings (Alberta) Ltd.; Mainstreet Equity Corp.; Boardwalk Reit Properties Holdings Ltd.; 508548 Alberta Inc.; BCIMC Realty Corporation; 959630 Alberta Inc.; and Weidner Investment Services Inc. (as represented by Altus Group Ltd.), COMPLAINANT***

and

***The City of Calgary, RESPONDENT***

before:

***L. Wood, PRESIDING OFFICER  
S. Rourke, MEMBER  
E. Bruton, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

<b>Roll Number</b>	<b>Location Address</b>	<b>Assessed Person</b>	<b>Hearing Number</b>	<b>2012 Assessment</b>
071106207	44 Radcliffe CR SE	BPCL Holdings Inc.	66571	\$17,720,000
071106397	40 Radcliffe CR SE	Boardwalk Reit Properties Holdings (Alberta) Ltd.	66567	\$18,260,000
071127500	32 Radcliffe CR SE	BPCL Holdings Inc.	66564	\$17,690,000
072037302	1300 41 ST SE	Mainstreet Equity Corp.	67044	\$30,110,000
075192310	4610 Hubalta RD SE	Mainstreet Equity Corp.	67046	\$11,210,000
083026807	5337 26 AV SW	Boardwalk Reit Properties Holdings (Alberta) Ltd.	66542	\$23,990,000
086156619	22 Glenway PL SW	Boardwalk Reit Properties Holdings (Alberta) Ltd.	66540	\$11,190,000
099041105	200 Lynnvew RD SE	Boardwalk Reit Properties Holdings (Alberta) Ltd.	66536	\$24,500,000
104054556	5320 Lakeview DR SW	Boardwalk Reit Properties Holdings Ltd.	66533	\$15,560,000



to add to or retract from another person's (witness) answer or statement under cross examination (or while answering questions from the Board) in a quasi - judicial setting.

[4] When the hearing resumed that afternoon, and before proceeding with the cross examination of the Complainant's rebuttal evidence, the Board restricted the questioning to only one of the Respondents. The Board advised the Respondents that they were afforded a lot of latitude by the Board (and the Complainant) throughout the morning session, and the Board found their approach unstructured, confusing, and ineffective and it constituted an abuse of process. The Board offered a 15 minute recess to allow them time to organize their questions given the Board's instructions. The Board's ruling was met with resistance by the Respondents, who verbally challenged the Board. However, given the course of events that had transpired, it is the Board's role to maintain order and structure in the hearing. The Respondents indicated that they would abide by the Board's ruling and the hearing proceeded on that basis.

#### **Property Description:**

[5] The subject properties are suburban low-rise/townhouse multi-residential properties, and include one complex that has a mixed use of high-rise and townhouse units. The properties are located throughout the four quadrants of the City. The units for the low-rise/townhouse properties ranged between 88 – 240 suites. Most of these properties are 1970's vintage, but the years of construction ranged from 1959 – 2002. The mixed use complex consists of 164 townhouse units and 162 high-rise units. It was built in 1968.

[6] The subject properties were assessed based on the Income Approach to value. There is no dispute in regards to the number or types of units or the assessed rental rates applied to the individual subject properties. The primary basis for these complaints is the Gross Income Multiplier ("GIM") used to derive the assessments.

#### **Issues:**

[7] The issues under complaint were identified at the hearing as follows:

- (a) The assessed GIM applied to the subject properties is in excess of market value.
- (b) The vacancy rate applied to the subject properties should be 5%.
- (c) The property located at 2105 90 AV SW should be classified as a low-rise, and assessed with the low-rise GIM.

#### **Complainant's Requested Values:**

[8] The Complainant requested the revised assessments for the subject properties as follows:

Roll Number	Location Address	Hearing Number	Requested Assessment
071106207	44 Radcliffe CR SE	66571	\$16,907,191
071106397	40 Radcliffe CR SE	66567	\$17,422,422
071127500	32 Radcliffe CR SE	66564	\$16,878,567
072037302	1300 41 ST SE	67044	\$28,728,867
075192310	4610 Hubalta RD SE	67046	\$10,695,802
083026807	5337 26 AV SW	66542	\$22,889,589
086156619	22 Glenway PL SW	66540	\$10,676,720
099041105	200 Lynnvlew RD SE	66536	\$23,376,196
104054556	5320 Lakeview DR SW	66533	\$14,846,270
104142617	5334 Lakeview DR SW	66530	\$11,926,630
112029103	10 Frobisher BV SE	68461	\$18,853,617
125115303	2105 90 AV SW	68586	\$52,820,661
200109866	2524 66 AV SW	68592	\$15,065,720
200205045	360 Falshire DR NE	67237	\$25,198,585
200230290	216 Doverglenn CR SE	67239	\$11,669,015
200406650	1000 1620 70 ST SE	68337	\$30,026,485
200439552	3600 Brenner DR NW	68354	\$33,060,620
200710200	4646 73 ST NW	67273	\$ 6,373,591
757122007	7000 Somervale CO SW	68414	\$14,798,563

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

- (a) The assessed GIM applied to the subject properties is in excess of market value.

[9] The Complainant submitted that the parties agree with the methodology utilized to determine the GIM for these multi residential properties. However the parties disagree about which sales should be included in that analysis. The Complainant submitted an Altus Suburban Low-Rise GIM Study to support his request of an 11.0 GIM (as opposed to the current assessed GIM of 11.5) based on three investment sales comparables of 40+ units that transacted between July 1, 2009 – July 1, 2011 (Exhibit C1 page 16). The Complainant noted the study is similar to the one submitted in the 2011 hearing. The Board set out the three sales as follows:

Project Name	Acadia Place 331/333 Heritage DR SE	Castle View Park 79 Castleridge DR NE	Bonaventure Court 205 Heritage DR SE
Sale Price	\$9,022,000	\$14,650,000	\$24,976,508
Roll #	123619140, 123619165	028204402	Condo Title
Sale Date	1-Oct-09	21-Dec-10	6-Jul-10
No. of Suites	58	120	195
No. Bach.	5		15
No. 1 bdrm	12	84	60
No. 2 bdrm	14	36	120
No. 3 bdrm	27		
Age	1964	1981	1977
Bachelor	\$825		\$775
1 bed rent	\$1,050	\$950	\$975
2 bed rent	\$1,275	\$1,050	\$1,100
3 bed rent	\$1,350		
Residential Income	\$852,300	\$1,411,200	\$2,425,500
Vacancy %	5.0%	5.0%	5.0%
Vacancy \$	\$42,615	\$70,560	\$121,275
EGI	\$809,685	\$1,340,640	\$2,304,225
EGI/Suite	\$13,960	\$11,172	\$11,817
GIM	11.14	10.93	10.84
Appraisal GIM	11.22	10.97	11.06

<b>MED GIM</b>	<b>10.93</b>
<b>AV GIM</b>	<b>10.97</b>

[10] The Complainant provided supporting documentation from the Altus Appraisal Division for the three sales comparables and the GIM that was utilized in those reports (Exhibit C1 pages 19, 23 & 24). The Complainant also submitted an Altus Suburban Low-Rise ASR Analysis to further support the proposed GIM of 11.0 (Exhibit C1 page 17).

[11] The Complainant indicated that he had made an adjustment to the rent applied to the one bedroom apartments in Castle View Park. He had used \$950/month whereas the Respondent had used \$900/month in their analysis. The Complainant submitted the sales document indicates that the rents at the time of sale were below market (Exhibit C1 page 24).

[12] The Respondent submitted the current assessed GIM of 11.5 is supported by the sales evidence. He submitted four sales comparables, similar to the Complainant in which these are investment sales of 40+ units that transacted between October 2009 – December 2010. The Board has set out the four sales as follows:

<b>Project Name</b>	<b>Acadia Place 331/333 Heritage DR SE</b>	<b>Cedar Court 1820 14 AV NE</b>	<b>330 2 AV NE</b>	<b>Castle View Park 79 Castleridge DR NE</b>
Sale Price	\$9,022,000	\$10,280,000	\$5,500,000	\$14,650,000
Roll #	123619140, 123619165	055125009	057106007	028204402
Sale Date	1-Oct-09	22-Dec-09	03-Mar-10	21-Dec-10
No. of Suites	58	65	40	120
No. Bach.	5	0		
No. 1 bdrm	12	4	25	84
No. 2 bdrm	14	52	15	36
No. 3 bdrm	27	9		
Age	1964	1969	1971	1981
Bachelor	\$825			
1 bed rent	\$1,050	\$1,025	\$800	\$900
2 bed rent	\$1,275	\$1,200	\$950	\$1,050
3 bed rent	\$1,350	\$1,425		
Residential Income	\$852,300	\$951,900	\$411,000	\$1,360,800
Vacancy %	5.0%	5.0%	4.5%	6.0%
Vacancy \$	\$42,615	\$47,595	\$18,495	\$81,648
EGI	\$809,685	\$904,305	\$392,505	\$1,279,152
EGI/Suite	\$13,960	\$13,912	\$9,813	\$10,660
<b>GIM</b>	<b>11.14</b>	<b>11.37</b>	<b>14.01</b>	<b>11.45</b>

<b>MED GIM</b>	<b>11.41</b>
<b>AV GIM</b>	<b>11.99</b>

[13] The Respondent noted two of the sales comparables were submitted in common with the Complainant: Acadia Place and Castle View Park. However he disputed the Complainant's use of a higher rent for the one bedroom apartments (\$950/month) in Castle View Park and he noted the complex is in "average" condition, which is reflected in the rental rates. The Respondent indicated that the sales comparable of 330 2 AV NE is considered a valid sale despite a 14.01 GIM. He also submitted the sales comparable of Cedar Court in his analysis, which the Complainant agreed is a good sale, one in which he would have included had he been aware of it.

[14] The Respondent argued that Bonaventure Court (the condominium sale) presented by the Complainant should be afforded less weight because each unit could be sold separately as opposed to a multi residential complex, and the valuation approach is different: condominiums are based upon the Direct Sales Comparison Approach. Moreover this property was a foreclosure sale and therefore is not an indication of "market value".

[15] In rebuttal, the Complainant argued that 330 2 AV NE is an outlier given the high GIM of 14.01. The Complainant also argued that the Respondent cannot discount Bonaventure Court as the City had utilized condominium sales in their analysis in the past (Exhibit C2 pages 26 – 32). Nor can it be discounted because it was a court ordered sale. The Complainant argued that it was exposed to the open market for two months and was actively and professionally brokered, and therefore is a valid sale. The Complainant provided an excerpt from Alberta Municipal Affairs, *2010 Recording and Reporting Information for Assessment Audit and Equalized Assessment Manual* which indicated that foreclosure sales can be valid if they are exposed to the open market with the seller seeking the highest price (Exhibit C2 page 43).

[16] The Board finds the best sales comparables are Acadia Place and Cedar Park, as the income parameters used were undisputed by both parties. The Board finds the GIM, based on the average of these two sales, is 11.25. The Board placed less weight on the sales comparable of Castle View Park as there was a slight variance in the income parameters used by both parties and there was insufficient evidence for the Board to draw a conclusion. The Board also placed less weight on the sale located at 330 2 AV NE which, given its low rents and high GIM of 14.01, suggests dissimilarities between it and the rest of the sales comparables and the Board considered this sale an outlier for the purposes of this analysis. The Board notes that once the outlier is removed from the Respondent's sales comparables, it indicates a GIM of 11.3 which is close to the conclusion reached by the Board of 11.25. The Board further notes the sales comparable of Bonaventure Court, (the condominium/foreclosure sale), indicates a GIM of 10.84 which falls within the range provided by both parties. This Board accepts the reasoning set out in CARB 2431/2011P in which Bonaventure Court was used as a reference point that shows consistency in the market place.

(b) The vacancy rate applied to the subject properties should be 5%.

[17] The Complainant submitted the vacancy rate should be 5% given the close range in assessed vacancy rates applied to the subject properties of 3.3% - 6.5% (Exhibit C1 page 18).

[18] The Respondent argued that the vacancy rate is dependent upon the market zone and supported by the rents. If the vacancy rate is consistent, then the rents are consistent. However, in this instance, the different market zones have different market rental rates, which, in turn, have different vacancy rates.

[19] On its face, the Board finds it is reasonable to expect that different market zones have different vacancy rates. However the Respondent did not submit any evidence to support the vacancy rates applied to the subject properties (i.e. a vacancy study). The Board was not convinced that a percentage point between market zones is reasonable without any evidence to support it. The Board finds the Complainant's request of a 5% vacancy rate is reasonable given the close range in vacancy rates of 3.3% – 6.5% amongst the different market areas. Moreover if the outliers are removed from the analysis, it supports a 4.5% vacancy rate. The Board finds the 5% vacancy rate is further supported by the market evidence. The Board notes the sales

comparables of Acadia Place and Cedar Park that were used in the GIM analysis are located in different quadrants of the City and each reflect a 5% vacancy rate.

[20] The Board has set out its calculations for the subject properties based on the revised GIM of 11.25 and vacancy rate of 5%. The Board notes the Effective Gross Income ("EGI") set out in the Complainant's submission were carried forward from the current assessments and no changes for the 5% vacancy had been made (Exhibit C1 page 18). It should also be noted that there was a discrepancy in the Complainant's Potential Gross Income ("PGI") reported for the properties located at 2524 66 AV SW and 1000, 1620 – 70 ST SE., and therefore the Board accepted the PGI as reported by the Respondent. The Board also noted the Complainant did not include the PGI for the property located at 7000 Somervale CT SW, therefore, the Board accepted the PGI as reported by the Respondent. The Board has set out its calculations as follows:

Roll Number	Location Address	PGI	EGI	VAC	GIM	Assessed Value
071106207	44 Radcliffe CR SE	1,605,660	1,525,377	0.05	11.25	17,160,491
071106397	40 Radcliffe CR SE	1,654,800	1,572,060	0.05	11.25	17,685,675
071127500	32 Radcliffe CR SE	1,603,260	1,523,097	0.05	11.25	17,134,841
072037302	1300 41 ST SE	2,727,600	2,591,220	0.05	11.25	29,151,225
075192310	4610 Hubalta RD SE	1,042,800	990,660	0.05	11.25	11,144,925
083026807	5337 26 AV SW	2,185,200	2,075,940	0.05	11.25	23,354,325
086156619	22 Glenway PL SW	1,019,400	968,430	0.05	11.25	10,894,837
099041105	200 Lynnview RD SE	2,220,000	2,109,000	0.05	11.25	23,726,250
104054556	5320 Lakeview DR SW	1,417,200	1,346,340	0.05	11.25	15,146,325
104142617	5334 Lakeview DR SW	1,138,800	1,081,860	0.05	11.25	12,170,925
112029103	10 Frobisher BV SE	1,776,000	1,687,200	0.05	11.25	18,981,000
200109866	2524 66 AV SW	1,447,200	1,374,840	0.05	11.25	15,466,950
200205045	360 Falshire DR NE	2,393,100	2,273,445	0.05	11.25	25,576,256
200230290	216 Doverglenn CR SE	1,137,600	1,080,720	0.05	11.25	12,158,100
200406650	1000 1620 70 ST SE	2,926,800	2,780,460	0.05	11.25	31,280,175
200439552	3600 Brenner DR NW	3,139,200	2,982,240	0.05	11.25	33,550,200
200710200	4646 73 ST NW	608,400	577,980	0.05	11.25	6,502,275
757122007	7000 Somervale CO SW	1,427,400	1,356,030	0.05	11.25	15,255,337

- (c) The property located at 2105 90 AV SW should be classified as a low-rise, and assessed with the low-rise GIM.

[21] The Complainant submitted that the property located at 2105 90 AV SW was incorrectly classified, perhaps the result of a clerical error. This property has 164 units identified as low-rise/townhouse units (50.31%) and 162 units are high-rise units (49.69%). The property was classified as predominately a high-rise complex, which resulted in the use of a higher GIM of 12.25. The Complainant argued that an investor would not pay a higher GIM for this complex. The complex's predominate use is low-rise/townhouse and therefore the assessment should reflect the low-rise GIM. The Complainant submitted an equity comparable located at 2120 Southland DR SW which is purported to have a high-rise component and it was assessed with the low-rise GIM (Exhibit C1 page 10).

[22] The Respondent argued that there is a high-rise component to this complex and

therefore it is appropriate to apply the GIM of 12.25 to the entire complex.

[23] The Board finds that it is reasonable to apply two different rates (or even a blended rate) to a property such as this one which has a mixed use, as opposed to applying either the low-rise GIM or high-rise GIM to the entire complex as suggested by the parties. In this case, the Board has attributed an 11.25 GIM to the low-rise component and a 12.25 GIM to the high-rise component. The Board relied upon the PGIs as set out in the 2012 Annual Assessment Explanation Supplement Multi- Residential Detail Report for the subject property, which was included in both parties submissions and those values were uncontested (Exhibit C1 pages 6 – 9; Exhibit R1 pages 4 – 7). The Board has set out its calculations for 2105 90 AV SW as follows:

2105 90 AV SW	PGI	EGI	VAC	GIM	Assessed Value
Low-rise / Townhouse	2,477,400	2,353,530	0.05	11.25	26,477,212
High-rise	2,278,200	2,164,290	0.05	12.25	26,512,552
<b>Total</b>					<b>52,989,764</b>

#### **Board's Decision:**

[24] The decision of the Board is to revise the 2012 assessments for the subject properties as follows:

Roll Number	Location Address	Hearing Number	Assessment (truncated)
071106207	44 Radcliffe CR SE	66571	\$17,160,000
071106397	40 Radcliffe CR SE	66567	\$17,680,000
071127500	32 Radcliffe CR SE	66564	\$17,130,000
072037302	1300 41 ST SE	67044	\$29,150,000
075192310	4610 Hubalta RD SE	67046	\$11,140,000
083026807	5337 26 AV SW	66542	\$23,350,000
086156619	22 Glenway PL SW	66540	\$10,890,000
099041105	200 Lynnview RD SE	66536	\$23,720,000
104054556	5320 Lakeview DR SW	66533	\$15,140,000
104142617	5334 Lakeview DR SW	66530	\$12,170,000
112029103	10 Frobisher BV SE	68461	\$18,980,000
125115303	2105 90 AV SW	68586	\$52,980,000
200109866	2524 66 AV SW	68592	\$15,460,000
200205045	360 Falshire DR NE	67237	\$25,570,000
200230290	216 Doverglenn CR SE	67239	\$12,150,000
200406650	1000 1620 70 ST SE	68337	\$31,280,000
200439552	3600 Brenner DR NW	68354	\$33,550,000
200710200	4646 73 ST NW	67273	\$ 6,500,000
757122007	7000 Somervale CO SW	68414	\$15,250,000

DATED AT THE CITY OF CALGARY THIS 22 DAY OF November 2012.

  
Lana J. Wood  
Presiding Officer



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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Evidence
2. C2	Complainant's Rebuttal
3. R1	Respondent's Evidence

*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**

Subject	Property Type	Property Sub -Type	Issue	Sub - Issue
CARB	Residential	Walk Up Apartment Townhouse and High-rise Apartment	Income Approach	Gross Income Multiplier Vacancy Rate