

**CALGARY
COMPOSITE 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:

Westfield Willowglen Ltd. (C/O Royalcan Developments Limited), as represented by Altus Group Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***S. Barry, PRESIDING OFFICER
D. Morice, MEMBER
Y. Nesry, MEMBER***

This is a complaint to the Composite Assessment Review Board (CARB) 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:	201632197
LOCATION ADDRESS:	1729 8 Av N.E. Calgary, AB
HEARING NUMBER:	64968
ASSESSMENT:	\$22,900,000

This complaint was heard on the 21st day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *D. Chabot, Altus Group Limited*

Appeared on behalf of the Respondent:

- *M. Ryan, City of Calgary*

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

There were no Procedural or Jurisdictional Matters raised at the hearing. The Board does note that the Complaint arises from an Amended 2011 Property Assessment Notice, occasioned by the consolidation, in 2010, of eleven individual buildings and related land, previously assessed separately, into one title.

Property Description:

The premises under complaint consist of eleven suburban office buildings, comprising 282,791 sq.ft. in total, situated on an 898,816 sq.ft. (20.62 acre) parcel in the north-east Calgary community of Mayland Heights. The premises are assessed using the income approach.

Issues:

Does the property suffer from chronic vacancy and should the vacancy rate be increased to 18 per cent?

Complainant's Requested Value: \$18,890,000

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

The Complainant reviewed the assessment parameters and confirmed that there was no complaint with respect to the market rents, operating costs, non-recoverable expense rate or capitalization rate; the only issue is that the Respondent has applied a typical vacancy rate of 12 per cent in its income calculations. The Complainant argued that the City typically adjusts for chronic vacancy if higher than typical vacancy rates are demonstrated over a three year period. She argued that the property under complaint is subject to chronic vacancy over a three year period that averages 18 per cent.

In support of that argument, the Complainant charted vacancies of 12.22 per cent in August 2008, 14.25 per cent in December 2008, 14.57 per cent in July 2009, 24.54 percent in November 2009 and 24.6 per cent in July 2010. Additional data showed that the vacancy condition persisted into August 2011 at 22.35 per cent. The average for the last three years is 18.04 per cent and the average during the valuation year was 21.24 per cent. These

summaries were supported by rent rolls with leasing details.

The Respondent's position was that at July 1, 2010 two of the buildings, totalling 65,896 sq.ft., had vacancies of 100 per cent and 48 per cent and that this accounted for the high overall rate and this should not be used to reflect what is typical for the site. The Board noted, however, that the Respondent's own figures, demonstrated a total vacancy rate of 24 per cent for the parcel on the valuation date.

The Complainant submitted that the property was assessed in its entirety and not by individual building and since the buildings were not individually differentiated by office rent or any other factor neither should they be differentiated by vacancy.

The Board finds that the Complainant has clearly demonstrated a situation of chronic vacancy over a three year period and agrees that if the property is assessed as a whole then the vacancy rate should be accepted for the entirety of it. The vacancy rate should be increased to 18 per cent and the assessment should be reduced as submitted in the revised calculation, the accuracy of which was not contested by the Respondent.

Board's Decision:

The 2011 Assessment is reduced to \$18,890,000

DATED AT THE CITY OF CALGARY THIS 22nd DAY OF September 2011.


S. Barry, Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's 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.*