

**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:

1062788 Alberta Ltd, COMPLAINANT (as represented by Altus Group Ltd)

and

The City Of Calgary, RESPONDENT

before:

F.W. Wesseling, PRESIDING OFFICER

D. Cochrane, MEMBER

R. Roy, 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	LOCATION ADDRESS	HEARING NUMBER	ASSESSMENT
200203990	1463-17 th Ave SW	64437	\$886,500
200204006	1459-17 th Ave SW	64438	\$796,500
200204014	1455-17 th Ave SW	64440	\$782,000
200204022	1451-17 th Ave SW	64441	\$796,500
200204030	1445-17 th Ave SW	64442	\$612,000
200204048	1441-17 th Ave SW	64443	\$526,000

This complaint was heard on 17th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- B. Neeson, Agent for Altus Group Ltd

Appeared on behalf of the Respondent:

- A. Czechowskyj, Assessor, City of Calgary

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

As the six complaints are at the same location and are owned by the same company the complainant and respondent had prepared one submission to apply to all complaints. The Board agreed.

The Respondent as a preliminary matter recognizes that the owners of these properties due to deferred maintenance issues and the cost associated with the re-construction have been heavily impacted financially. The City therefore would like to propose reductions to the assessments for 2011 as follows:

ROLL NUMBER	LOCATION ADDRESS	HEARING NUMBER	Proposed ASSESSMENT
200203990	1463-17 th Ave SW	64437	\$699,500
200204006	1459-17 th Ave SW	64438	\$628,750
200204014	1455-17 th Ave SW	64440	\$617,000
200204022	1451-17 th Ave SW	64441	\$628,750
200204030	1445-17 th Ave SW	64442	\$482,750
200204048	1441-17 th Ave SW	64443	\$425,900

This proposal generally reflects the re-construction assessment imposed by the Condominium Association to the owner of the six retail units in this building. The proposed assessments would result in a per square foot assessment of \$315.00. The Complainant rejected the offer made by the City and requested a merit hearing.

Property Description: Subject properties are located in the Bella Vista Building located along 17th Ave SW. The retail units are all located at ground level. Above the ground floor level are 60 residential units. The building was constructed in 2001. The retail units range in size from 2217 to 1316 square foot. The units are assessed at \$400.00 per square foot. The site is classified "CC-1" Commercial Corridor 1 in the City of Calgary Land Use Bylaw.

Issues: The Complainant raised the following matter in Section 4 of the Assessment Complaint form: Assessment amount

Presentation of the Complainant and Respondent were limited to:

- Assessment overstated in relation to the physical condition of the building.
- Assessment overstated in relation to comparable properties.

Complainant's Requested Value:

ROLL NUMBER	LOCATION ADDRESS	HEARING NUMBER	REQUESTED ASSESSMENT
200203990	1463-17 th Ave SW	64437	\$221,700
200204006	1459-17 th Ave SW	64438	\$199,200
200204014	1455-17 th Ave SW	64440	\$195,500
200204022	1451-17 th Ave SW	64441	\$199,200
200204030	1445-17 th Ave SW	64442	\$153,000
200204048	1441-17 th Ave SW	64443	\$131,600

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

Complainant's position: The Complainant provided extensive background for the Board's consideration with regard to the current condition of the building. Over past few years the owners have become aware of serious issues with regard to the initial construction of the building which has led to water damage issues which in turn has resulted in accelerated deterioration of building materials evidenced by wood rot, rusting steel, compromised thermal insulation, mould, etc. The Bella Vista Condominium Association had commissioned a "Building Envelope Analysis" by Lee and Ridder Architects which outlined an action plan and budget to repair the building. The Executive Summary was provided. The repairs amount in total to 6.2 million dollars. The condominium association has levied a special assessment to all the property owners in the building to deal with repairs to the building. The repairs are currently under way and started in March 2011 and are estimated to be completed in March of 2012. The owner of the subject 6 retail units is responsible for approximately 1.1 million of the special assessment by the condominium association. The special assessment was initially started in 2010 with a more detailed assessment and payment schedule in 2011. Evidence was provided, outlining back ground on the special assessment as well as news media information about the issues with the building and hardship created for the individual unit owners.

Net rent roll information was provided which indicated that due to the special assessment the owner is currently losing money.

The Complainant is requesting that the rating of the building be changed to "poor" quality from "good" quality which would result in an assessment per square foot rate change from \$400.00 to \$100.00. Further evidence to support that change the Complainant presented assessment data on similar buildings in the same general area which are assessed at a lower rate despite being of similar quality and not having any issues as currently experienced by the subject building.

CARB decision 1108/2010 was presented which dealt with the same building prior to the water and drainage issues coming to light.

Respondent's Position: The respondent indicated that it recognized the issues the owners of this building were dealing with. As the offer by the City was rejected, it is no longer on the table. The respondent addressed issues dealing with cost to cure in particular and future returns from insurance claims and civil law suits that may result from future actions taken by the condominium association. It was indicated no market sales data was presented for the Board's consideration with regard to the Complainant's request. The Respondent did provide equity comparables of similar size in the same general area.

Board's Decision: Upon reviewing the verbal and written evidence provided by the parties, the Board considers that amendments to the assessment are warranted for the following reasons:

- The City acknowledged the "cost to cure" approach with its initial offer to reduce the assessment by approximately the same amount as is outlined by the special assessment by the Condominium Association on the owner of the subject properties. The Board is in support of that approach on a one time basis and determined that the special assessment levied by the association in 2010 should also be reflected in the assessment for 2011.
- The Board finds that the Complainant proved that the condition of the building and its impact on the subject 6 retail properties and further that the repairs as outlined by the Condominium Association were urgently needed and to be financed through the onetime special assessment. The Board considers this situation as an extraordinary deferred maintenance issue which should be reflected in the 2011 assessment.

The Board reduces the assessment in accordance with the table below:

ROLL NUMBER	LOCATION ADDRESS	HEARING NUMBER	AMENDED ASSESSMENT
200203990	1463-17 th Ave SW	64437	\$665,500
200204006	1459-17 th Ave SW	64438	\$598,500
200204014	1455-17 th Ave SW	64440	\$587,000
200204022	1451-17 th Ave SW	64441	\$598,500
200204030	1445-17 th Ave SW	64442	\$459,250
200204048	1441-17 th Ave SW	64443	\$407,700

DATED AT THE CITY OF CALGARY THIS 1 DAY OF NOVEMBER 2011.


F.W. Wesseling
Presiding Officer

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

Complainant: C1 Evidence Submission Al Lalani 1463-17th Ave SW

Respondent: R1 Assessment Brief prepared by City of Calgary Assessment

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 MGB Administrative Use Only

<i>Decision No.</i>		<i>Roll No.</i>		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Assessment too High	Building Condition	Deferred maintenance