

**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:

***R & N Properties Ltd.
One Extreme Ltd.
(as represented by Altus Group Limited), COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***J. Dawson, PRESIDING OFFICER
D. Pollard, MEMBER
J. Lam, MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board [CARB] 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: 044183457

LOCATION ADDRESS: 1624 16 Avenue NW

LEGAL DESCRIPTION: Plan 2768JK; Block 2

HEARING NUMBER: 68540

ASSESSMENT: \$ 2,180,000

- [1] This complaint was heard on the 30 day of October, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 2.
- [2] Appeared on behalf of the Complainant:
- B. Neeson Agent, Altus Group Limited
 - G. Lane Controller
- [3] Appeared on behalf of the Respondent:
- E. D'Altorio Assessor, City of Calgary
 - B. Thompson Assessor, City of Calgary

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

- [4] No preliminary, procedural, or jurisdictional matters were identified.

SECTION B: Issues of Merit

Property Description:

- [5] Constructed in 1965, the subject – 1624 16 Avenue NW, is a retail building located along 16 Avenue just west of 14 Street NW in the community of Capitol Hill.
- [6] The Respondent prepared the assessment on the direct comparison approach showing no value for the 9,070 square foot improvement graded as a 'B+' quality. The site area of 23,122 square feet is valued on its land value only as if vacant.

Matters and Issues:

- [7] The Complainant identified two matters on the complaint form:
- Matter #3 - an assessment amount*
 - Matter #4 - an assessment class*
- [8] Following the hearing, the Board met and discerned that this is the relevant question which needed to be answered within this decision:
1. *How should the subject site be assessed? 'Direct Comparison Approach' or 'Income Approach'?*

Complainant's Requested Value:

On complaint form: **\$1,410,000**
Within disclosure: **\$1,410,000**
Confirmed at hearing: **\$1,410,000**

Board's Decision in Respect of Each Matter or Issue:***Matter #3 - an assessment amount*****Question 1 How should the subject site be assessed? 'Direct Comparison Approach' or 'Income Approach'?*****Complainant's position***

- [9] The Complainant argued that the subject property is a retail property used to generate an income and should be equitably assessed using the income approach at a market rental value of \$14 per square foot. (C1 pp. 3-5)
- [10] The Complainant cited numerous court and Board decisions to suggest their methodology is supported by the Board and courts throughout Canada and the United States of America. (C1 pp. 16-17 and C2 pp. 16-17)
- [11] The Complainant reviewed the subject's details including; 2012 Property Assessment Notice, Property Assessment Summary Report, 2012 Municipal Retail Assessment Summary, 2012 Assessment Explanation Supplement, maps, and photos. (C1 pp. 11-21)
- [12] The Complainant outlined their requested assessment showing the inputs of market rental rate, vacancy allowance, vacant space shortfall allowance, non-recoverable allowance, and capitalisation rate. (C1 pp. 23, 76-85)

Respondent's position

- [13] The Respondent indicated that the subject assessed value is derived using rates of \$100 per square foot for the first 20,000 square feet and \$60 per square foot for the remaining area. The rates used are consistent with Commercial – Corridor [*C-COR*] land rates along 16 Avenue. (R1 p. 4)
- [14] The Respondent reviewed the subject properties including; map, photo, 2012 Property Assessment Notice, 2012 Assessment Explanation Supplement – Commercial Land and Cost report, and Assessment Request for Information [*ARFI*]. (R1 pp. 6-13)
- [15] The Respondent included a map entitled 'Average Daily (24 hr) Weekday Traffic Volumes'. The Respondent spoke on the map, testifying that traffic counts show that 16 Avenue and Macleod Trail experience similar traffic volumes. (R1 p. 14)
- [16] The Respondent presented their 2012 Commercial Land Values table to show how the Respondent developed land rates for most commercial properties within the city. The 16

Avenue rates [SX7] rates were developed based on two sales: 1) one at 505 16 Avenue NE that; 2) the second sale is at 210 16 Avenue NE. The report concludes for C-COR properties that for the first 20,000 square feet \$100 per square foot is the value, for 20,001 to 155,000 square feet \$60 per square foot is the value and areas greater than 155,000 square feet \$28 per square foot. (R1 p. 15-25)

- [17] The Respondent provided equity comparables to show the equitable treatment of similar properties. (R1 p. 26)
- [18] The Respondent reviewed their policy on valuing improved properties as if vacant to maintain equity; *"This methodology ensures that equitable assessments between properties is maintained."* (R1 pp. 32-56)
- [19] The Respondent explained their policy on performing a highest and best use analysis; *"It is the opinion of the ABU (Assessment Business Unit or Respondent) that a highest and best use analysis does not have to adhere to such rigorous standards as is applied for appraisal purposes."* (R1 pp. 57-69)
- [20] The Respondent concluded that the assessment is correct, fair and equitable and requested that the Board confirm the assessment. (R1 p. 78)

Complainant's rebuttal position

- [21] The Complainant reviewed details of the sale at 505 16 Avenue NE showing that there are no reported brokers which typically indicates that the property has not been exposed to the open market; furthermore, the Complainant provided an email from an employee of the purchaser that seems to corroborate this position. The property was purchased by a business currently located directly across the street that wishes to expand their presence within the same vicinity; this may indicate that a typical willing buyer – willing seller situation has not occurred. The purchaser may have had non-typical motivation to proceed with a purchase. These factors cast doubt on the validity of the sale for assessment purposes. (C2 pp. 4-9)
- [22] The Complainant provided Board decisions and Municipal Government Board decisions to support their position. (C2 pp. 10-42)

Board's findings

- [23] The Complainant cited numerous court and Board decisions to suggest their methodology is supported by the Board and courts throughout Canada and the United States of America. The Board, in this case, cannot rely on any of these decisions because the Complainant failed to provide the referenced material and show the relevance of these decisions to this case. Many of these referenced decisions were discussed in a previous Board decision; CARB 2020/2012-P.
- [24] The Board considered the 2012 Commercial Land Values chart presented by the Respondent. The sale at 505 16 Avenue NE has some doubt placed on it; therefore, the Board assigned little weight to it. The sale at 210 16 Avenue NE has not been disputed and it supports the assessment.
- [25] The Board finds any of the three valuation approaches are acceptable; however, the valuation

method that produces the most reliable result should be selected. With evidence to support the direct comparison approach the Board finds that the direct comparison is acceptable.

Matter #4 - an assessment class

- [26] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

Board's Decision:

- [27] After considering all the evidence and argument before the Board it is determined that the subject's assessment is correct at a value of \$2,180,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF December 2012.


J. Dawson
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure – 183 pages
2. R1	Respondent Disclosure – 192 pages
3. C2	Rebuttal Disclosure – 42 pages

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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Freestanding	Sales Approach	Land Value
			Income Approach	Rental Rate