

**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:

**WESTJET,
(as represented by Altus Group Inc.),
COMPLAINANT**

and

**THE CITY OF CALGARY,
RESPONDENT**

before:

**R. Glenn, PRESIDING OFFICER
S. Rourke, MEMBER
Y. Nesry, 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 2012 Assessment Roll as follows:

ROLL NUMBER:	902019009
LOCATION ADDRESS:	21 Aerial PI NE
FILE NUMBER:	67812
ASSESSMENT:	\$29,710,000

This complaint was heard on Monday, the 29th day of October, 2012 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 3.

Appeared on behalf of the Complainant:

- D. Chabot as agent for Altus Group Inc.

Appeared on behalf of the Respondent:

- K. Buckry as assessor for the City of Calgary

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

[1] There were no issues of procedure or jurisdiction raised by either of the parties at the hearing.

Property Description:

[2] The subject property is a 21.27 acre land parcel with a large airplane hangar and office situated in the North McCall area at the Calgary International Airport. It is just south of the Airport Terminal Building along taxiway 'F'. The facility has a total rentable area of 189,015 SF and is a combination of the original hangar and a three storey office addition that was built in two separate phases. The hangar and office were built in 2000 and 2002 respectively.

Issues:

[3] The Complainant's brief sets out three issues, however, only the issue of excess land was pursued. The Complainant seeks a reduction in the subject assessment based on the excess land adjustment made by the Respondent regarding recently added land used for parking.

Complainant's Requested Value:

[4] \$27,530,000

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

Complainant's Position:

[5] The Complainant does not agree with the Respondent's assessment of excess land on the subject property. The Respondent has calculated the excess land as 7.66 acres, whereas the Complainant argues that it should only be 4.14 acres.

[6] The parties agree that the assessment, net of the land adjustment, is \$24,977,418. With excess land valued at \$618,750/acre, the Respondent is claiming 7.66 acres, or, an additional \$4,742,184, for a total assessment of \$29,719,602.

[7] The Complainant argues that the excess land is only 4.14 acres, or an additional \$2,561,625, so the total assessment should only be \$27,539,043. The crux of the Complainant's argument is that the owner added only 4.14 acres to the subject property two years ago which increased the total land area from 17.13 acres to 21.27 acres, yet the Respondent applied a 7.66 acre excess land adjustment without providing a valid explanation.

[8] In furtherance of their position, the Complainant presented a CARB decision regarding the exact same issue and parties from 2011, (CARB # 2633-2011-P). That decision noted that the Respondent therein had not provided any support for its position regarding Industrial Warehouse excess land which arose as land with less than typical site coverage of 30%, whereas Airport excess land arose where there was airport land with less than 21% site coverage. In that case the CARB found that the Respondent's argument for the 21% threshold for airport site coverage was unsupported, and so, declared the amount of excess land to be only 4.14 acres.

[9] The Complainants complete their argument saying that the Respondents have not supported their 21% figure and that it is entirely arbitrary, and the Board should therefore rely on the case law as presented. The Complainants state that they cannot test the veracity of the 21% figure and so the figure is inappropriate.

Respondent's Position:

[10] The Respondent confirms the only thing in issue here is the site coverage. For industrial properties, the City of Calgary uses a site coverage of 30% as being typical. Industrial properties that have less than this have an additional land component that is added to their value. They say that airport hangars have an apron area and require more land than industrial warehouses. Their site coverage ratio is therefore less than industrial warehouses.

[11] Of the 30 total hangars at the Calgary Airport, only three are impacted by a site coverage add. All are considerably less than 21%. These are: Werklund Capital: 11.3%, SAIT: 11.5%, and, Westjet: 13.4% site coverage.

[12] The first three hangars not affected with a site coverage add are: Avmax: 20.6%, Landmark Aviation: 21.6%, and Air Canada: 21.7% site coverage. As can be seen, there is a very large spread (7.2%) between Westjet and Avmax. "This is the starting point where the other hangars slot in". Based on that, the breakpoint was determined by the Respondent to be 21%.

[13] The Respondents carry on noting that: "for us to change would be an inequity. They are all being treated the same". Anything less than 21% site coverage would therefore attract an excess land adjustment, as in the instant matter.

[14] The Respondents conclude their argument stating that the 21% figure is a benefit to property owners, because they could have left the figure at 30%.

Board's Decision:

[15] The Board notes that here there have been no studies put into evidence to support the correctness of the 21% figure. However, the Respondent's reasoning in arriving at a figure of 21% is basically correct in the view of the Board.

[16] With the revelation that all Calgary International Airport properties are treated the same by utilizing a 21% site coverage minimum figure, it would seem that the subject assessment is fair and equitable. The decision put forward by the Complainant in this matter was based on incomplete information put before that Board at that time. In any event, this Board is not bound by previous CARB decisions.

[17] Based on all of the foregoing, the subject assessment is herewith confirmed in the amount of \$29,710,000.


DATED AT THE CITY OF CALGARY THIS 26th DAY OF NOVEMBER, 2012.

R.Glenn, Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. 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.

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Decision No.2374-2012-P Roll No.902019009				
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial Warehouses	Equity	Airport Land	Excess Land Value