

**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.

between:

**1457354 Alberta Ltd.,  
(as represented by Altus Group Ltd.), COMPLAINANT**

and

**The City Of Calgary, RESPONDENT**

before:

**I. Zacharopoulos, PRESIDING OFFICER  
P. Pask, MEMBER  
A. Wong, MEMBER**

[1] These are complaints to the Calgary Assessment Review Board in respect of a property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>LOCATION ADDRESS:</b>	<b>HEARING NUMBER:</b>	<b>ASSESSMENT:</b>
201632221	472 12 AV SE	63285	\$410,500
201632239	480 12 AV SE	63288	\$817,500
201632254	1109 OLYMPIC WY SE	62835	\$1,250,000
201632262	441 11 AV SE	63289	\$771,000
201632270	425 11 AV SE	63290	\$550,000
201632320	205 1111 OLYMPIC WY SE	62836	\$779,000
201632338	217 1111 OLYMPIC WY SE	62837	\$806,000
201632346	229 1111 OLYMPIC WY SE	62838	\$1,810,000
201632353	235 1111 OLYMPIC WY SE	62840	\$453,000
201632361	241 1111 OLYMPIC WY SE	62844	\$1,500,000
201632379	248 1111 OLYMPIC WY SE	62846	\$1,260,000
201632387	240 1111 OLYMPIC WY SE	62847	\$531,000
201632395	226 1111 OLYMPIC WY SE	62848	\$2,700,000
201632411	300 1111 OLYMPIC WY SE	62849	\$2,600,000
201632247	1129 OLYMPIC WY SE	62832	\$2,860,000

[2] These complaints were heard by a Composite Assessment Review Board on September 26<sup>th</sup>, 2011 at the office of the Board located at 4<sup>th</sup> floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

[3] Appeared on behalf of the Complainant:

- *Mr. D. Genereux* *Altus Group Ltd.*

[4] Appeared on behalf of the Respondent:

- *Mr. J. Toogood* *City of Calgary Assessment*

### **BOARD'S DECISION IN RESPECT OF PROCEDURAL OR JURISDICTIONAL MATTERS:**

[5] The subject complaints were scheduled to be heard by this Board the week of September 26<sup>th</sup>, 2011. At the onset of the hearings the parties informed the Board that the common issue for all complaints was the assessed rate/square foot (sf) and the parties proposed to progress their respective evidence and arguments before the Board once and then, in the interests of conciseness, ask the Board to carry forward said evidence and arguments to all 15 similar properties scheduled for the week. It was accepted that the Board's findings and decision regarding the land valuation issue would therefore be common to all properties. The Board found this to be an appropriate approach to the matters at hand.

### **PROPERTY DESCRIPTION:**

[6] The subject properties are retail/commercial condos located within the first 3 floors of the Arriva complex located at the northwest corner of 12<sup>th</sup> Avenue and Olympic Way SE. The condos are commonly assessed through a rate of \$360/sf. The area breakdown is as follows:

<b>ROLL NUMBER:</b>	<b>LOCATION ADDRESS:</b>	<b>AREA (sf):</b>
201632221	472 12 AV SE	1,141
201632239	480 12 AV SE	2,271
201632254	1109 OLYMPIC WY SE	3,488
201632262	441 11 AV SE	2,142
201632270	425 11 AV SE	1,528
201632320	205 1111 OLYMPIC WY SE	2,164
201632338	217 1111 OLYMPIC WY SE	2,239
201632346	229 1111 OLYMPIC WY SE	5,048
201632353	235 1111 OLYMPIC WY SE	1,259
201632361	241 1111 OLYMPIC WY SE	4,176
201632379	248 1111 OLYMPIC WY SE	3,509
201632387	240 1111 OLYMPIC WY SE	1,475
201632395	226 1111 OLYMPIC WY SE	7,513
201632411	300 1111 OLYMPIC WY SE	7,244
201632247	1129 OLYMPIC WY SE	7,965

[7] The assessments before the Board are all amended assessments issued (as per the Respondent) in response to the registration of the condominium plan for the subject complex.

### **REGARDING BREVITY:**

[8] In the interests of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

### **MATTERS/ISSUES:**

[9] The matter identified by the Complainant as the basis for these complaints is "an assessment amount". While the Assessment Review Board Complaint forms (complaint forms) also indicate "an assessment class" to be under question, the Complainant indicated at the time of the hearing that there were no objections to the classification of the subject properties.

[10] The Board finds the Complainant has presented the following issues for deliberation:

1. **Does the Complainant's equity analysis produce an appropriate market value basis for assessment purposes for the subject properties as of July 1, 2010?**

### **COMPLAINANT'S REQUESTED VALUE:**

[11] The Complainant's requested revisions are based on the uniform application of a rate of \$250/sf. The resulting assessments are as follows:

<b>ROLL NUMBER:</b>	<b>LOCATION ADDRESS:</b>	<b>REQUEST:</b>
201632221	472 12 AV SE	\$285,250
201632239	480 12 AV SE	\$567,750
201632254	1109 OLYMPIC WY SE	\$872,000
201632262	441 11 AV SE	\$535,500
201632270	425 11 AV SE	\$382,000
201632320	205 1111 OLYMPIC WY SE	\$541,000
201632338	217 1111 OLYMPIC WY SE	\$559,750
201632346	229 1111 OLYMPIC WY SE	\$1,262,000
201632353	235 1111 OLYMPIC WY SE	\$314,750
201632361	241 1111 OLYMPIC WY SE	\$1,044,000
201632379	248 1111 OLYMPIC WY SE	\$877,250
201632387	240 1111 OLYMPIC WY SE	\$368,750
201632395	226 1111 OLYMPIC WY SE	\$1,878,250
201632411	300 1111 OLYMPIC WY SE	\$1,811,000
201632247	1129 OLYMPIC WY SE	\$1,991,000

[12] The Complainant also provided at the time of the hearing an alternate valuation option

which was subsequently abandoned and will therefore not be addressed by the Board.

**BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE:**

[13] In addition to the evidence the parties presented at the hearing the Board referenced the Municipal Government Act and associated Regulations in arriving at its decision. We found the following to be particularly applicable to the complaint before us:

- **Municipal Government Act** (MGA) Part 9 and Part 11.
- **Matters Relating to Assessment and Taxation Regulation 220/2004** (MRAT) Section 1; Part 1 and Part 5.1.
- **Matters Relating to Assessment Complaints Regulation 310/2009** (MRAC) Division 2 and Schedule 1.

[14] Jurisprudence has established the onus of showing an assessment is incorrect rests with the Complainant. Evidence and argument was put before the Board by the Complainant in that regard; to show the assessment is incorrect and to provide an alternate market value as of July 1, 2010 (see line [11] above). The Board is to determine if (within the direction of the MGA and associated Regulations) it has been swayed to find the assessment is incorrect and if the assessment, being a market value determination as of July 1<sup>st</sup> 2010, should be revised.

[15] With regard to the individual issues identified above the Board's findings are as follows:

**1. Does the Complainant's equity analysis produce an appropriate market value basis for assessment purposes for the subject properties as of July 1, 2010?**

[16] The Complainant presented leasing evidence from the subject property (starting Doc. C-1, pg 93) to demonstrate the economic performance of the subject development has not been as good as expected, leading to a number of vacancies and lease terminations within the complex. The Complainant offered that, while the property is a quality undertaking, the economic climate has impacted this new development more than more established locations.

[17] The Complainant advanced an equity argument in support of its requested revisions. A list of purported comparable properties was offered under C-1, pg 23, supported by site specific information for these properties starting C-1, pg 128.

[18] The Respondent did not refute the financial performance of the subject complex, offering that, upon consideration of the location and economic factors, the property may be overbuilt. The Respondent offered that this is recognized through a -\$20/sf adjustment off the typical rate for condo units similar to the subject – these found principally in the Beltline district of SW Calgary.

[19] The Respondent indicated the subject properties and complex are classified as "A+" for the purposes of assessment. No explanation is offered for the classification process. A list of purported comparable assessments was provided starting Doc. R-1, pg 29 in support of the rate of \$360/sf.

[20] The Respondent also offered a number of 2011 sales from the subject premises, acknowledging these sales are substantially post-facto to the subject assessments.

[21] The Board finds the Complainant has provided sufficient data (e.g. descriptions, photos, plans, etc.) to allow the Board to determine comparability between its references as shown on C-1, pg 23 and the subject properties. In return, the Respondent has offered little beyond its purported comparable assessments. In fact, a number of pages within the Respondent's submission are not related to the subject complaints. The Board finds the Respondent's post-facto sales are dated some 9 months past the valuation date of July 1, 2010, are therefore not applicable to the subject assessments and are given no consideration by the Board.

[22] The Board finds the Complainant's purported comparable properties offer 8 locations deemed appropriate at first brush: #s 1, 4, 5, 11, 12, 13, 14 and 15 as found under C-1, pg 23. The Respondent's equity references are found to be unconvincing in that (i) little is known about these properties; (ii) there is no support offered for a rate of \$360/sf, and (iii) a number of these units appear (from the unit numbers) to be within high-rise buildings.

[23] Upon review of the Complainant's 8 comparables as noted under [22] above, the Board finds the overall median assessed rate is \$250/sf. The Respondent offers that #s 1, 4, 5, and 14 should be excluded in that they each are over 10,000sf in area and assessed under different criteria (although the median assessed rate for these 4 properties is \$275/sf). The Board finds the remaining 4 comparables indicate a median assessed rate of \$250/sf.

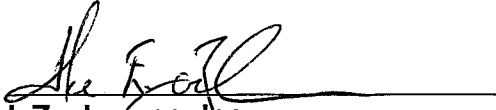
[24] Upon considering the above the Board finds the Complainant's equity analysis does produce an appropriate market value basis for assessment purposes for the subject properties as of July 1, 2010; that being \$250/sf.

#### **BOARD'S DECISION:**

[25] The assessments are reduced as to reflect a common rate of \$250/sf as follows (all rounded):

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201632270	425 11 AV SE	63290	\$382,000
201632320	205 1111 OLYMPIC WY SE	62836	\$541,000
201632338	217 1111 OLYMPIC WY SE	62837	\$559,500
201632346	229 1111 OLYMPIC WY SE	62838	\$1,262,000
201632353	235 1111 OLYMPIC WY SE	62840	\$314,500
201632361	241 1111 OLYMPIC WY SE	62844	\$1,044,000
201632379	248 1111 OLYMPIC WY SE	62846	\$877,000
201632387	240 1111 OLYMPIC WY SE	62847	\$368,500
201632395	226 1111 OLYMPIC WY SE	62848	\$1,878,000
201632411	300 1111 OLYMPIC WY SE	62849	\$1,811,000
201632247	1129 OLYMPIC WY SE	62832	\$1,991,000

DATED AT THE CITY OF CALGARY THIS 28 DAY OF October 2011.

  
I. Zacharopoulos  
Presiding Officer

**APPENDIX "A"**

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

<b>NO.</b>	<b>ITEM</b>
1. Doc. C-1	Complainant's Submission (in 2 parts)
2. Doc. R-1	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.*