

**CALGARY
COMPOSITE 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 (the Act).

between:

***Various Parties as listed below and as represented by Altus Group Limited,
COMPLAINANTS***

and

The City Of Calgary, RESPONDENT

before:

***S. Barry, PRESIDING OFFICER
K. Farn, MEMBER
J. Mathias, MEMBER***

These are complaints to the Composite Assessment Review Board (CARB) in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

Roll No.	File No.	Complainant	Address	Assessment
053239109	62423	Western Securities Limited	3805 Marlborough Dr N.E.	\$52,680,000
043010412	62109	Boardwalk Reit Properties	1919 University Dr N.W.	\$57,800,000
043010347	62107	Boardwalk Reit Properties	2905 Unwin Rd N.W.	\$20,980,000
045212800	63413	Mainstreet Equity Corp.	1419 17 Av N.W.	\$6,810,000
200710200	62299	Mainstreet Equity Corp.	4646 73 St N.W.	\$6,550,000
010094100	62153	Palmer, Marvin G.	432 Huntsville Cr N.W.	\$4,880,000

These complaints were heard on the 3rd day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *J. Weber, Altus Group Limited*

Appeared on behalf of the Respondent:

- *S. Cook, City of Calgary*
- *A. Mohtadi, City of Calgary*
- *N. Domenie, City of Calgary*
- *B. Brocklebank, City of Calgary*

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

The Parties requested that the Complaint identification information for all six properties be read into the record at the outset of the hearing and that all the information, evidence, questions and responses be carried forward from the first complaint to the remaining five. The Parties declined the opportunity to have the fact information for the individual complaints dealt with as part of the hearing on the basis that there was only one issue that would apply regardless of the site specific characteristics of the properties.

Property Description:

The properties under complaint are all suburban, low-rise, apartment style, multi-family, residential buildings located in either the northwest or northeast sectors of the City of Calgary. They are located, primarily, in Market Zone 6 although one is in Market Zone 7 and one is in Market Zone 4. They were constructed between 1972 and 1981. The suite count in the properties ranges from a high of 397 to a low of 40, with three properties having between 40 and 50 total units; one had 149 units; one had 378 units and one had 397 units. The properties are assessed using the Income Approach, employing a Gross Income Multiplier in that analysis.

Issues:

There was no dispute as to the numbers or types of units, the rental values assigned to each or the vacancy rate. The only issue before the Board for these Complaints is whether the Gross Income Multiplier (GIM) should be reduced from 12 to 11 in calculating the 2011 Assessment.

Complainant's Requested Value:

Roll No.	File No.	Requested Assessment
053239109	62423	\$48,291,936
043010412	62109	\$52,987,770
043010347	62107	\$19,236,360
045212800	63413	\$6,244,920
200710200	62299	\$6,009,973
010094100	62153	\$4,476,780

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

The Complainant argued that the GIM of 12, applied by the Respondent for suburban, low-rise, multi-residential properties, is too high and generated an estimate of market value that exceeded the revenue that could be produced with current market rents. It was the Complainant's contention that a GIM of 11 more accurately reflected market value on July 1, 2010, the valuation day for the 2011 taxation year as established by s.3 of *Matters Relating to Assessment and Taxation Regulation AR 220/2004* (MRAT).

In support of his argument, the Complainant prepared a Suburban Low-Rise GIM Study and Analysis (Study) based initially on the sale of three properties and expanded to five, with the addition of two more sales provided in the Respondent's evidence package. Dealing with the expanded sample, the Complainant referenced sales that occurred between October 2009 and December 2010. The Complainant stated that the sales chosen represented investment grade sales of 40 or more units because that represented a market that has a "much smaller and specific base of investors capable of purchasing buildings of this size and they sell less frequently." They are also comparable to the subjects under Complaint.

The properties in the expanded study can be identified as: Acadia (58 units, selling in October 2009); Castle View (120 units selling in December 2010); Bonaventure (195 units selling in July 2010); Cedar Court (65 units selling in December 2009); and 2nd Ave NE (40 units selling in March 2010). With the exception of Cedar Court and 2nd Ave NE, all of the sales were supported by documentation from either the Complainant or the Respondent with reports from at least two of Altus Appraisal Division, Alberta Data Search or Real Net. The Cedar Court and 2nd Ave NE sales were supported by Real Net documentation.

The Respondent objected to the Castle View sale being included as it was a *post facto* sale, in that it occurred after the valuation date of July 1, 2010. The Complainant argued, and the Board concurred, that "*post facto*" sales have not the same limitations for the purposes of a study as they would if they were being used as direct sales comparisons with a specific subject for assessment purposes. In other words, for the purposes of the Study, a sale of otherwise comparable property could be included if the sale occurred within the base year or within a reasonable valuation period. That valuation period is not fixed in statute or assessment practice but can be expanded, to some degree, depending on the volume of sales available for analysis. With the number of sales being somewhat limited, a December 2010 sale is both reasonable and acceptable for the purposes of the Study. This position is substantiated in Municipal Government Board Order (MGB) 044/05, finding number 8 and decision number 7 as provided by the Complainant in his Rebuttal evidence C2.

The Respondent also objected to the inclusion of Bonaventure as that property was converted to a condominium in 1988 and such properties are assessed differently from the subject properties and would likely trade in a different fashion. The Respondent also noted that Bonaventure sold as a result of a Court Order and the sale, therefore, would not represent a typical market transaction. The Complainant, however, argued that that the property was being rented at the time of sale and real rents were identifiable. The rental rates that were interpolated into the Study reflect the smaller size of the units compared to the otherwise similar properties. The property was listed on the open market for approximately two months with an asking price of \$27,300,000 and a selling price of almost \$25,000,000. These assertions were supported by Altus Appraisal and Real Net. There is no evidence that the sale was not arms

length. The Board noted that the results of the Study would not be influenced by the elimination of this property from the Study; however, it is in the same market area as, and would compete with, Acadia in the marketplace. The Board was comfortable in accepting Bonaventure as a reference point that shows consistency in the marketplace.

The Respondent introduced two sales, only one of which was contested by the Complainant; that being, 2nd Ave NE. Although it was a recent sale in March 2010, it is in a much different Market Area, being zone 3 or North Hill, virtually in the Downtown. The Complainant argued that is susceptible to much different influences affecting sales and rents. This was evidenced by the much lower rents it achieved and, therefore, potential gross income with the resulting GIM of 14, compared to the GIM of 12 applied by the Respondent to the subjects, or the GIM calculation of 11 proposed by the Complainant. The Board agreed that the 2nd Ave NE property is an outlier and should not be included for consideration in the GIM analysis.

In developing the GIM in his study, the Complainant applied the rental income in place at the time of sale for each of the four sales and reduced it by a typical vacancy rate of 5 per cent, that being the rate generally applied by the Respondent to the subjects, to produce an effective gross income (EGI). Dividing the sales price by the EGI resulted in a GIM of 11, rounded.

The Respondent's apparent Study methodology in determining the current GIM, at least as it becomes apparent in the assessments of the comparables – see for example, p.75 of R1 and compare to p.3 of C2, as well as p.122 of R1 - was to maintain the sales price of the properties as of the last recorded date of sale but to adjust the rents at the time of sale to the current typical (lower) rents and making further adjustments to the vacancy rate. The Board did not accept that study methodology: one cannot achieve a correct result by adjusting only one input, or two inputs, in the equation and not similarly adjusting all of them. The point of the exercise appeared to be to maintain the market value of the property at time of sale while simultaneously reducing rents, which can only be achieved by increasing the assessed GIM. The point should be to determine the correct market value as of valuation date. The Board also noted that the Respondent's 2011 Low Rise GIM Study, as it is labelled, includes only three properties one of which has been discarded by the Board as an outlier. In fact, it was not possible for the Board to determine exactly how this year's assessed GIM of 12, increased from 11 in the previous year, was derived since no other suburban low-rise GIM study was presented by the Respondent.

In applying the Complainant's GIM rate of 11 to the EGI of the properties under complaint, the Complainant used the same methodology throughout; that is, the median of actual rent rates in place on the valuation date, specific to the unit type, was applied to the number of suites. The result was a potential gross income that was reduced by the typical vacancy rate used by the Respondent. The Study methodology and the application of it to the subjects was consistent.

In the absence of any verifiable evidence as to the validity of the GIM rate used by the Respondent in the assessments, the Board accepted the Complainant's requested GIM rate of 11 as appropriate for determining the assessments of the subject properties.

In deciding this issue, the Board had regard for s. 267(3) of the Act which prohibits the alteration of an assessment where it is fair and equitable, having regard to, among other things, the assessments of similar properties in the same municipality as well as s.6 of MRAT which establishes the valuation standard for parcels and improvements as market value. MRAT further sets out in s.2 that an assessment must be prepared using mass appraisal and must be an

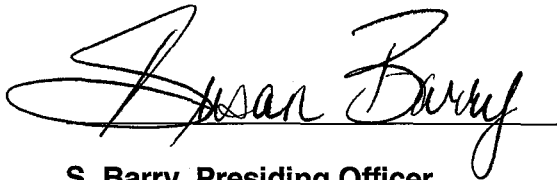
estimate of market value and must further reflect typical market conditions for properties similar to the subject.

Having accepted the GIM Study results, the Board concludes that the assessments under complaint are not fair and equitable if the Respondent's GIM rate of 12 stands. The GIM rate being the only issue before it, the Board then determined to reduce the assessments, applied the new GIM of 11 to the respective EGI's and verified the calculations to arrive at the revised assessments for all six properties.

Board's Decision: That the 2011 Assessments be revised, as follows:

Roll No.	File No.	Revised Assessment
053239109	62423	\$48,290,000
043010412	62109	\$52,980,000
043010347	62107	\$19,230,000
045212800	63413	\$6,240,000
200710200	62299	\$6,000,000
010094100	62153	\$4,470,000

DATED AT THE CITY OF CALGARY THIS 24th DAY OF October 2011.



S. Barry, Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1, for each Complaint	Complainant's Disclosure
2. R1, for each Complaint	Respondent's Disclosure
3. C2, for each Complaint	Complainant's Rebuttal

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.*