

**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:

Trafalgar Investments LTD. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER

I. Fraser, MEMBER

R. Deschaine, 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:	080055502
LOCATION ADDRESS:	602 – 22 AV SW
HEARING NUMBER:	61987
ASSESSMENT:	\$1,380,000

This complaint was heard on 27th day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Ave. NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *Mr. J. Weber, Altus Group LTD.*
- *Mr. D. Mewha, Altus Group LTD.*

Appeared on behalf of the Respondent:

- *Ms. E. Currie Assessor, City of Calgary*

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

None

Property Description:

The subject is a 6-unit, low-rise, 2-storey apartment building built in 1942 on a corner lot in the community of Cliff Bungalow. It has 4 one-bedroom units and 2 two-bedroom units. The parcel size is 8,252 square feet (SF) and the property is assessed as if vacant land, for a "Land Value Only" valuation of \$1,380,000 based in part on \$160 per SF.

Issue:

The assessment calculated for the subject by the City is erroneous.

Complainant's Requested Value:

The Complainant initially requested \$765,500 based on an Income Approach To Value calculation. Subsequently at the hearing, the Complainant requested \$902,502 based on market sales.

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

The Complainant submitted his Brief C-1 and argued that the subject's assessment is incorrect and must contain a mathematical, factual, other error because the assessment had virtually doubled year over year, increasing from \$779,500 in 2010 to \$1,380,000 in 2011. He clarified that historically the assessment has regularly declined from a high of \$902,500 in 2008 to a low of \$779,500 in 2010. The Complainant argued that for the current 2011 year, when he applies the City's "typical" assessment parameters in an Income Approach to Value calculation, the indicated value is \$765,500 or \$127,583 per unit and not \$1,380,000.

The Complainant provided the Master Rent Roll for the subject on pages 14 and 15 of C-1 to illustrate that the subject was achieving "typical" rents of \$700 per month for one-bedroom units, and \$850 per month for two bedroom units. He argued the inputs used in his valuation calculation are appropriate, and reveal a reasonably accurate estimate of market value for the subject. Consequently he argued, the assessment must contain an error.

In addition, the Complainant clarified that the building owners had attended the City's "pre-assessment workshops" in October/November 2010 and were given written indication (page 8 of C-1) that, using an Income Approach to Value methodology, the subject should be assessed in the range of \$867,510 to \$907,000. Subsequently, the City's "2011 Property Assessment Notice" and the City's 2011 "Multi-Residential Detail Report" (pages 9 and 11 of C-1) for the subject, indicated an assessment of \$1,380,000 or \$230,000 per unit. He argued given the City's preliminary written estimates of value, and his revised calculations of value above-noted, the current assessment must be erroneous.

On page 16 of C-1 the Complainant provided a matrix of eight market sales of multi-family low-rise apartment buildings similar to the subject. All of the sales had occurred between 2009 and 2010 and contained between 5 and 8 units like the subject's 6 units. Two were zoned M-C2 like the subject and one was in the same community of Cliff Bungalow. The Complainant clarified that with respect to the sale of these 8 properties, the median value was \$150,417 per unit, which, if applied to the subject's 6 units, would produce an assessment of \$902,502. He compared this to the subject's assessment at \$230,000 per unit or \$1,380,000.

The Respondent provided her Brief R-1 and clarified that in 2011 the subject was assessed using a "Highest and Best Use" land only valuation methodology and not the "Income Approach to Value" methodology as per previous years. She clarified that the City's 2011 Multi-Residential Detail Report (C-1 page 11) appears to indicate that an assessment calculation for the subject was prepared using the Income Approach, however the "Adjustment Factor" section of the Report clarifies that a "land only" approach was used instead. She clarified that, in a situation where the City calculates that the land value, by itself, of a property is greater than that of a property's combined land and improvement, then the property is valued for assessment purposes using its land value, as if the property is vacant. She noted that the 8,252 SF subject parcel was assessed in this manner.

In further clarification of the City's 2011 assessment methodology for the subject, the Respondent identified two market sales of "improved" property comparables on page 16 of R-1. Both sales occurred in 2009 and were said to be in the same Market Zone as the subject. On pages 17 and 18 of R-1 she provided the Real Estate detail sheets for each sale. The two properties are located in Lower Mount Royal adjacent to 17th AV SW and said to be nearby and reasonably representative of the subject.

Analysis of these two sales by the City indicates that one 2,367 SF site sold for a time-adjusted "land only" value of \$172 per SF, and the other 5,799 SF site for a "land only" value of \$158 per SF. The median and mean "land only" values were \$165 per SF. Therefore, the City opted to use \$160 per SF (pg 14, R-1) to value the subject, thereby leading to the current assessed value of \$1,380,000 based on the subject's 8,252 SF of land and certain locational factors.

The Respondent argued that the City's methodology in this case is supported by several previous Calgary Composite Assessment Review Board (CARB) Decisions. She supplied copies of several CARB Decisions contained on pages 37 to 116 of her Brief R-1 in support of her position. However, the Complainant argued that none of the Board Orders she provided dealt with M-C2 land like the subject.

The Complainant also argued that the Respondent's two market sales are not representative of vacant land value for the subject. He noted that the Respondent's two sales were located quite adjacent to 17 AV SW – a very busy and valuable property location, whereas the subject is not.

He also noted that the two sales occurred in the community of Lower Mount Royal whereas the subject is in the Cliff Bungalow community which he argued is a different market. In addition, he questioned the details of the Respondent's sale #2 at #1723 – 9 ST SW, noting that the latter had provided the property's "Real Estate Listing Sheet" on page 18 of R-1 which showed that the listing had expired some 4 months before the sale, but she had provided no particulars of the subsequent sale itself.

The Complainant argued that neither of the City's comparative parcels is similar in size to the subject, and in fact the largest one is 30% smaller than the subject. Therefore, given typical market characteristics, a smaller parcel used by the City would typically be worth more on a per square foot basis than a larger parcel like the subject. Hence this would tend to distort to the upside, the per square foot value attributed to the subject. He argued that evidence of this principle is apparent in the respective per square foot selling prices of the Respondent's two sales. In addition, he argued that the Respondent provided no evidence that the land value used for the subject, was equitably applied to other similar properties.

Therefore, based on the foregoing, the Complainant requested that the assessment be reduced to \$902,502.

The Respondent argued that her two market sales were indeed representative of value and that the Lower Mount Royal community is, by market analysis, equivalent to the Cliff Bungalow community and the Complainant had provided no evidence that this is not so. In addition, she argued that unlike the City, the Complainant had provided no market sales of vacant land. Therefore, she argued, the Board should confirm the assessment at \$1,380,000.

Board's Analysis and Conclusions – Reasons

The Board finds that the City's "land only" methodology, based on the principle of "highest and best use" and used to assess the subject, is one that has been consistently applied and generally accepted in similar circumstances over a period of time. The Board need not consult the several CARB Decisions provided by the Respondent to confirm this point. The Board finds the City's decision to change from an Income Approach to Value methodology for the subject in 2010, to a "Highest and Best Use" "land value only" methodology in 2011, as being appropriate and consistent.

The Board also finds that the use of "base year" market sales to identify an appropriate land rate for use in "land only" assessments, is integral to and consistent with the City's process. However, in the current instance, the Board is not persuaded that the two sales advanced by the Respondent, are sufficiently similar to or accurately represent the comparable market value of the subject. The Board notes the following in this regard:

- Firstly, the Board finds that evidence supporting one of the Respondent's market sales – that being 1723 – 9 ST SW, rests entirely with an expired listing; and,
- Secondly, while it appears from the evidence that the 9th ST SW property sold some 4 months later, the particulars of the sale were not provided by the Respondent to the Board or Complainant; and,
- Thirdly, the location of the Respondent's two sales, somewhat adjacent to 17 AV SW are dissimilar to the location of the subject, which is not on or adjacent to 17 AV SW, and is in an entirely different community; and,

- Fourthly, the parcel size of one of the two sale parcels is approximately one-quarter the size of the subject, while the other parcel is some 30% smaller.

The Board notes that on page 16 of C-1 the Complainant has identified 8 market sales which, when averaged indicate a sale value of \$153 per SF and a weighted average of \$137 per SF. The assessed value is \$160 per SF.

The Board also notes within the Complainant's eight sales, an April 2010 sale of an 8,092 SF 8-unit multi-family property zoned M-C2. It is located at 1409A – 37 ST SW. The property sold April 6, 2010 for \$1,110,000 or \$137 per SF of land. This property appears in many respects to be not only nearby the subject, but also very similar in land size and site function to it. The subject is 8,252 SF in land area, has 6 units, and is also zoned M-C2.

Therefore, based on the subject's 8,252 SF land parcel, the indicated market value of the subject at \$137 per SF would appear to be \$1,130,000.

Board's Decision:

The assessment is reduced to \$1,130,000.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF October 2011.


K. D. Kelly,
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C-1	Complainant Disclosure
2. R-1	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.*

For Administrative Use Only

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Multi-family	Low rise	Income vs Land value Approach	Market sales