

**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:

Palliser Square Properties Ltd. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Mowbrey, PRESIDING OFFICER

H. Ang, MEMBER

T. Usselman, 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:	201123809
LOCATION ADDRESS:	120 10th Avenue SW
HEARING NUMBER:	61082
ASSESSMENT:	\$24,560,000

This complaint was heard on 13th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *G. Kerslake* *Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

- *D. Lidgren* *Assessor, City of Calgary*

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

Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board.

In addition, the Board advised the parties that the Board had no bias on this file.

During the hearing the Complainant advised the Board that certain source documents and proprietary financial information was not available for the hearing, and were in fact located at the Complainant's office. The Complainant noted that an invite had been extended to the assessor or a representative of the Municipality to view the source documents and financial information at the Complainant's office. (Exhibit C-1 page 21).

No objections on procedure or jurisdiction were raised.

Property Description:

The subject property is a 613 stall parkade located in the eastern periphery of the downtown core between 9th and 10th Avenue S.W. In addition, the subject property has 3,427 square feet of retail space.

Issues:

What is the correct operating expense ratio for the subject property?

Complainant's Requested Value: \$21,650,000.

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

What is the correct operating expense ratio for the subject property?

The Complainant advised the Board that the retail component of the subject property was not an issue.

The Complainant completed a review and analysis of recent parking structures and concluded that a capitalization rate of 7.50% would be representative of the Calgary market as of July 1st, 2010; and therefore the capitalization rate is not an issue.

The Complainant agreed that the income approach to valuation is the most relevant methodology to be applied for assessing a taxable value for the subject property.

The Complainant advised the Board that this roll number deals with one-half of the physical structure. (613 stalls plus some retail).

The Complainant advised the Board that the City of Calgary has applied a 25% expense ratio to parkades.

The Complainant provided the Board with a list of parkade structures including the subject property that showed the total parkade expenses ranging from 34% to 43%. The subject property's expense ratio was shown to be 37%. The Board was advised to disregard the property at 1st Avenue S.W. as there is an obvious error. (Exhibit C-1 page 24).

The Complainant presented a chart to the Board showing a stabilized income and expense statement. The statement produced an indicated value of \$21,657,105. (Exhibit C-1 pages 26 and 29).

Under rebuttal, the Complainant advised the Board that a comparable property, which the Respondent used, had an expense operating ratio of 31% for its parkade. (Exhibit C-2 pages 3-4).

The Complainant asked the Board to reduce the assessment to \$21,650,000.

The Respondent advised the Board that a good portion of the parkade operating costs associated with the subject property are paid for by the office tenants in the building. (Exhibit R-1 page 4).

The Respondent provided the Board with an income approach to valuation of the subject property. The assessed value using typical market rental rates and a typical expense ratio of 25% generated an assessed value of \$24,560,000. (Exhibit R-1 page 23-24).

The Respondent provided the Board with a statement that showed the actual parking revenue with the corresponding parking expenses that produced an actual net operating income of \$1,816,482. The assessed net operating income is \$1,793,025, which is 0.99 of the actual net operating income ratio. (Exhibit R-1 pages 28, 33, and 34).

The Respondent advised the Board that the Complainant used incorrect numbers in the Complainant's financial information presented to the Board. In addition, the Respondent advised the Board that the Complainant used an incorrect final business tax levy for the year 2010. (Exhibit R-1 pages 36-38).

The Respondent provided the Board with parkade equity comparables to the subject property. The subject property was a class C and all the parkades were assessed a 25% operating expense ratio and a 7.5% capitalization rate. (Exhibit R-1 page 93).

The Respondent provided the Board with parkade sales that indicates a rising trend for parkade sales. (Exhibit R-1 pages 94-96).

The Respondent advised the Board that the Complainant did not submit any evidence nor supporting documentation in support of the Complainant's financial information.

The Respondent closed his evidence and argument by stating the Board should confirm the assessment of \$24,560,000.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment of \$24,560,000 as being fair and equitable.

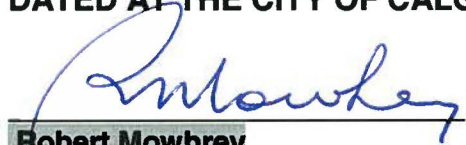
Reasons for the Board's Decision.

The Board is persuaded by the assessed net operating income to actual operating income ratio of 0.99. The Board noted the owner, under assessment request for information provided the numbers to substantiate this conclusion. The assessment is extremely close to the actual net operating income. (Exhibit R-1 page 28).

The Board is persuaded by the equity analysis for parkades provided by the Respondent. The analysis showed that all parkades were assessed a 25% operating expense ratio and a 7.5% capitalization rate. (Exhibit R-1 page 93). The overall assessment of the subject property is equitable with similar competing properties.

The Board noted that the Complainant provided either little evidence or no supporting documentation in support of the Complainant's financial statements. In addition, there was no evidence to support a conclusion that the business and property taxes are non-recoverable. The Board notes the dilemma the Complainant has regarding certain financial information that the owner did not want presented at a public hearing, however, the onus is on the Complainant to show that the assessment is incorrect and the Complainant risks confirmation of the assessment should the Complainant fail to present the evidence that would support the Complainant's position.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF OCTOBER 2011



Robert Mowbrey
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1- 41 pages	Complainant's Disclosure
2. C-2 -17 pages	Complainant's Rebuttal
2. R1-194 pages	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 direct*