

**COMPOSITE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, (MGA) Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Morguard Residential Properties (1) Inc. (as represented by AEC International Inc.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***C. J. Griffin, PRESIDING OFFICER
S. Rourke, MEMBER
J. Rankin, MEMBER***

This is a complaint to the *Composite Assessment Review Board* (CARB) 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: 123187312

LOCATION ADDRESS: 9700 Bonaventure Dr. SE

HEARING NUMBER: 63693

ASSESSMENT: \$50,410,000.

This complaint was heard on 4th day of November, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- Written submission only

Appeared on behalf of the Respondent:

- I. Pau
- A. Czechowskyj

Preliminary Matter(s):

In that the Complainant is relying upon a written submission only, from a procedural point of view the Respondent suggested that the CARB read the submission of the Complainant prior to the Respondent proceeding with their case.

The CARB agreed with this suggestion and accordingly the Hearing was adjourned for approximately ½ hour to allow the CARB to review the written submission of the Complainant.

As a Preliminary Matter the Assessor brought forward a recommended assessed value in the amount of **\$50,250,000**. The Assessor indicated that the recommendation was based upon an error having been corrected pertaining to the suite mix.

Property Description:

According to the Assessment Multi-Residential Detail Report (Exhibit R-1 pg. 33), the subject property is described as being a 330 suite multi-family residential apartment property that consists of 11 buildings which have a year of construction (yoc) of 1968. The suite mix is 3 bachelor units, 2 one bedroom units, 250 two bedrooms units and 75 three bedroom units.

The property has been assessed through application of the Income Approach with the following inputs:

Bachelor unit rental rate	\$ 775/Mo.
One bedroom rental rate	\$ 975/Mo.
Two bedroom rental rate	\$1,100/Mo.
Three bedroom rental rate	\$1,200/mo.
Vacancy allowance	5.5%
Gross Income Multiplier	12.00

Issues:

While there are a number of interrelated issues attached to the Assessment Review Board Complaint form, the Complainant's written submission (Exhibit C-1 p. 2) indicates the issue to be considered by the CARB is reduced to:

1. The assessed value of the subject property is too high (unfair and incorrect) when consideration is given to a recently completed appraisal of the property.

Complainant's Requested Value: \$ 46,300,000. (Exhibit C-1 pg. 3)

Party Positions:**Complainant's Position**

The Complainant's written submission (Exhibit C-1) consists of a copy of the 2010 CARB decision (CARB 2191/2010-P), which was authored by this Presiding Officer, together with a copy of an appraisal of the property completed by *Altus Group Ltd.* The said appraisal has an effective date of November 30, 2010 and it was completed and signed by R. Thompson, B. Sc.

and J. Maslen AACI. The stated purpose (Exhibit C-1 pg.4 of the appraisal report) is "...to estimate the "as is" market value of the Leased Fee Estate as at the effective date. The appraisal is intended for the exclusive use of Morguard Investments Limited." Further, "the appraisal is completed under the assumption there are no hazardous contaminants within the subject property". The appraisal incorporates an Income Approach to Value (\$46,300,000.) as well as a Direct Comparison Approach to Value (\$45,800,000.) and concludes (Exhibit C-1 pg. 32 of the appraisal report) with a reconciled value estimate of \$46,300,000.

In application of the Income Approach to Value the appraiser has utilized the following rental rates and other inputs:

Two bedroom units	\$1,075/mo.	198 suites
Large two bedroom units	\$1,180/mo.	50 suites
Three bedroom units	\$1,225/mo.	74 suites
Furnished units	<u>\$2,000/mo.</u>	<u>5 suites</u>
Project Total	\$372,500/mo.	327 suites
 Capitalization Rate		5.75%
Gross Income Multiplier (GIM)		10.5
Value per suite		\$140,000.

The appraiser utilized five (5) sales of multi-family developments, recorded between April 2009 and July 2010 and which varied in size from 31 suites to 195 suites. The structures involved consisted of a 119 suite, 24 storey high-rise; a 32 suite 6 storey low rise; a 31 suite 5 storey low rise; a 95 suite 5 storey low rise and a 195 suite, 5 building, 3 storey, walk-up development. The appraiser utilized the capitalization rates derived from each of the sales based upon the *Altus Group* methodology and market inputs.

The Direct Comparison Approach applied by the appraiser is based upon the same five (5) sales. In deriving a price per suite unit of comparison, the appraiser applied one single adjustment to the comparable sales based upon the ratio of net income of the subject in relation to that of the comparable. The appraiser explains (Exhibit C-1 pg. 28 of the appraisal) that "*The underlying premise of this methodology is that all relevant factors of an investment are reflected in its capability of generating income. The following equation is provided to illustrate the adjustment process: Sales Price per Suite (subject's NOI / Comparable's NOI) = Adjusted Sales Price Per Suite.*" The adjusted price per suite ranged from \$125,924 to a high of \$145,237. Additionally, and using these same five sales, the appraiser derived a GIM unit of comparison by dividing the sales price by the Effective Gross Income. The derived GIM's ranged from a low of 10.3 to a high of 12.6 and concluded with 10.5 as being appropriate for the subject property.

Respondent's Position

The Respondent's submission (Exhibit R-1) consists of an explanation as to the methodology employed by the Assessor to derive the estimated value, the Assessment Request For Information (ARFI) for the subject, two sales utilized to derive the GIM as well as a copy of the *Assessor's 2011 High Rise Mixed Use GIM Study*, four equity comparables and a critique of the methodology and the sales data utilized by the Complainant. With regard to the latter factor, the Assessor pointed out that two of the sales analysed by the appraiser (Complainant) are condominium developments and one of those sales was a court ordered sale that does not meet the requirements of "market value". In terms of the methodology employed by the

Complainant, the Assessor referenced (Exhibit R-1 pg. 47) CARB Decision 1302/2011-P which states *"The Board understands that calculating the value of a property using the income approach must be based on a consistent methodology. In other words, if "actual" rates are to be used to calculate a value using an income approach, then all factors in that calculation must reflect actual values. On the other hand, if typical rates are used to calculate value using an income approach, then all factors in that calculation must be typical rates. It is not appropriate to calculate the value of a property with the income approach using some factors from actual data and some factors derived from typical data. That said, for assessment purposes, typical rates are required."*

The Assessor further critiques (Exhibit R-1 pg. 62) the appraisal report as follows:

"The sales comparables used by the appraiser are all using market rental estimates in their calculation of the EGI, Vacancy, PGI and therefore GIM. The rents used to estimate all seem to be estimated higher than what the building is actually achieving. The appraisal the uses the actual rents and vacancy of the subject and applies an estimated GIM of 10.5 to the subject based on a range of GIM's derived from using these estimated rents. The 10.5 falls near the bottom of the GIM analysis and is used because the subject has higher operating costs than typical; a variable that is not taken into calculation of a GIM.

The appraisal was not done for assessment purposes and contains too many unjustified estimates and mixing of actual data to develop a final assessment value. The city (sic) of Calgary receives it's information annually from tenants and derives it's rent rates and vacancy through these requests for information. When applying these typical rents to the 5 comparables shown by the Complainant ; we see not only our rents fall closer in line with the rents being achieved in the buildings, but also that these 5 sales further support the use of a higher GIM to the subject than is being requested."

Additionally, the Respondent pointed out that the appraisal is an estimate of the leased fee estate, not the fee simple estate and the effective date of the appraisal is beyond the valuation date of July 1, 2010.

Complainant's Rebuttal

The Complainant submitted (Exhibit C-2) a rebuttal which, in the opinion of the Complainant, demonstrates:

- *"The City is relying upon older sales located in the beltline and downtown. Meanwhile the appraisal submitted by the complainant reflects newer sales with more comparable locations.*
- *The City has provided equity comparables that support AEC's value determination for the subject property.*
- *The City is attempting to discredit the work of a licensed appraiser. The appraiser has taken all variables into determining an appropriate value for the subject property.*
- *A 2011 decision clearly states that the appraisal, although outside the valuation date carries relevance."*

Board's Decision:

The assessment is **reduced** to the Assessor's recommendation of: **\$50,250,000.**

Decision Reasons:

While the CARB recognises that under Section 16 (1) of Matters Relating to Assessment Complaints Regulation (MRAC), Alberta Regulation 310/2009 the Complainant has the right to submit a written submission instead of attending in person, the CARB is somewhat handicapped by the inability to question the Complainant about their data and or the analyses of same. This is the case at hand as the Complainant has submitted an appraisal report on the property; however, the CARB is unable to question the appraiser on any aspects of same. The CARB notes that the Complainant also introduced (Exhibit C-1 pgs. 9 – 12) a copy of CARB Decision 2191/2010-P (authored by this Presiding Officer) which relates to the 2010 appeal of the assessed value of the subject property. This decision has little relevance for this Hearing as the assessment year is different as is the evidence presented.

It is the responsibility of the Complainant to provide the CARB with clear and, hopefully, unequivocal, evidence to support an adjustment to the current assessment and in this case they have failed to do so. While the CARB accepts that an appraisal of the subject property, signed by an accredited appraiser, is worthwhile and credible evidence, its importance, in this case, is diminished by the inability to question the author of same.

DATED AT THE CITY OF CALGARY THIS 29 DAY OF November 2011.



C. U. Griffin,
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. C2	Complainant's Rebuttal Disclosure
3. R1	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.*