

**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:

J.N.P. INVESTMENTS 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:

Address: **602 12th Avenue S.W.**

Roll Number	Unit Number	Hearing Number	Assessment
200617033	550	63504	\$524,500
200617041	530	63507	\$789,000
200617058	500	63508	\$989,500

This complaint was heard on 12th 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:

- *D. Chabot* *Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

- *R. Natyshen* *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.

No objections on procedure or jurisdiction were raised.

On a preliminary issue, since the evidence and argument was identical for both parties on the eight files, one hearing was agreed upon.

The Respondent raised a concern with the Complainant's rebuttal evidence, stating the majority of the rebuttal evidence was new evidence and should not be allowed. The Respondent stated that only one comparable should be allowed. The Board recessed, deliberated and rendered a decision to both parties. The decision was to allow the rebuttal evidence of the Complainant and the Board would give the rebuttal evidence the weight it deemed appropriate.

One Board member noted that the Complainant's evidence package showed 3 parking stalls instead of the 2 parking stalls that the Complainant used in the disclosure. The Respondent confirmed that 3 parking stalls was correct and the Complainant advised the Board that the requested assessment amounts should be based on a revised median of \$280 per square foot and not \$290 per square foot that was included in the Complainant's evidence package. The Board adjusted the Complainant's requested assessment amounts.

Property Description:

The subject property is an office condominium located in a 12 storey condominium complex. The condominium complex is in the Downtown Core and Beltline district. There are office condos throughout the building and one retail establishment on the main floor. The subject property was built in 1995 and classified as a B quality.

Issues:

What is the market value for the subject properties?

Complainant's Requested Values:

Roll Number	Unit Number	Area in Square feet	Hearing Number	Requested Assessment
200617033	550	1,544	63504	\$432,320
200617041	530	2,321	63507	\$649,880
200617058	500	2,911	63508	\$815,080

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

What is the market value for the subject property?

The Complainant's evidence and argument was based on 2 sales that occurred within the condominium complex. Using the corrected median value, the new median price per square foot is \$280. (Exhibit C-1 page 23).

In addition, the Complainant provided the Board with a Court of Queen's Bench of Alberta decision that states **"I think that generally speaking the recent sales price, if available as it was in this case, is in law, in common sense, the most realistic and most reliable method of establishing market value."** (Exhibit C-1 pages 37-38).

The Complainant advised the Board that the 2 sales were somewhat post-facto by 2 and 3 months, but previous CARB decisions have ruled that post-facto sales should be allowed. (Exhibit C-1 pages 42 and 50).

The Complainant advised the Board that the Respondent's non-residential condo sales were not comparable to the subject property. While the Respondent stated that the assessment department did not differentiate between office condos and retail condos, the Complainant stated that the retail condos were valued higher than the office condos.

The Complainant presented the Board with rebuttal evidence that showed the Respondent's third sale (306, 1117 1st SW) was not comparable to the subject property. The third sale was an office condo, but the remainder of the building was residential, making the comparison difficult. (Exhibit C-2).

In summary, the Complainant advised the Board that the market value for the assessed properties should be based on the sales approach and the best indicator were sales from the office building complex.

The Respondent advised the Board that the assessment department could not account for post-facto sales in the analysis and post-facto sales would be included in the subsequent assessment year.

In addition, the Respondent advised the Board that the assessment department did not distinguish office condos and retail condos in the downtown core.

The Respondent presented a sales chart to the Board showing 3 sales with a median of \$383 per square foot, in support of the assessment of \$340 PSF. The Respondent further advised the Board that even taking the 2 post-facto sales with the 3 sales presented by the Respondent, the median selling price of \$355 per square foot would support the assessment.

The Respondent stated the Board should not put any weight on the Complainant's post-facto sales. The sales analysis presented by the Respondent supports the assessment and the Respondent asked the Board to confirm the assessments.

Board's Decision:

The decision of the Board is to reduce the 2011 assessments to the following properties as fair and equitable and representing the market value of the subject properties.

Board's Decision on the Subject Properties:

Roll Number	Unit Number	Area in Square feet	Hearing Number	Board's Decision
200617033	550	1,544	63504	\$463,000
200617041	530	2,321	63507	\$696,000
200617058	500	2,911	63508	\$873,000

Reasons for the Board's Decision.


The Board was persuaded by the Court of Queen's Bench of Alberta's ruling that a recent sale price of a very similar property is the most realistic and reliable method of establishing market value.

The Board utilized the 2 post-facto sales as indicators of value, but noted the post facto sales were within the valuation year.

Even though the Respondent indicates the assessment department does not distinguish between office condos and retail condos in the Downtown Core, the Board agrees with the Complainant that there does appear to be a difference.

In summary, the Board took the median of the three 2010 sales which comprised the Complainant's 2 post-facto sales and the third office condo sale of the Respondent. The Board did not put any weight on the Respondent's 2009 sales that were retail condos. The median sale price of \$300 per square foot was used by the Board to arrive at the revised assessments for the subject properties.

DATED AT THE CITY OF CALGARY THIS 28th DAY OF OCTOBER 2011.


Robert Mowbrey
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C-1 56 pages	Complainant's Disclosure
2. C-2 10 pages	Complainant's Rebuttal Evidence
3. R-1 54 pages	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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	OFFICE	CONDO	SALES APPROACH	EQUITY COMPARABLES