



## **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:**

***625 – 11TH Avenue SW Inc., COMPLAINANT***

**and**

***The City of Calgary, RESPONDENT***

**before:**

***J. Dawson, PRESIDING OFFICER***

***A. Huskinson, BOARD MEMBER***

***P. McKenna, BOARD MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board [*CARB*] in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>067097303</b>
<b>LOCATION ADDRESS:</b>	<b>625 11 AV SW</b>
<b>LEGAL DESCRIPTION:</b>	<b>Plan A1; Block 71; Lots 5-10</b>
<b>FILE NUMBER:</b>	<b>71470</b>
<b>ASSESSMENT:</b>	<b>\$ 11,730,000</b>

This complaint was heard on the 12th day of July, 2013 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4

Appeared on behalf of the Complainant:

- - *no one appeared*

Appeared on behalf of the Respondent:

- *M. Byrne* *Assessor, City of Calgary*

The following individual was present for all or part of the proceedings and did not appear on behalf of a party:

- *S. Meiklejohn* *Agent, Altus Group Ltd.*

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

[1] Mr. Meiklejohn, Agent for Altus Group Ltd. attempted to appear on behalf of the Complainant; however, upon examination of the Assessment Complaints Agent Authorization, it became evident that the agent authorisation was not signed by the Complainant. The Board provided time for Mr. Meiklejohn to establish agency; however, his efforts failed with an acknowledgement that they do not represent the Complainant.

[2] The Board determined that neither Mr. Meiklejohn nor Altus Group Ltd. had standing before the Board and proceeded with the hearing without a Complainant.

[3] The Board accepted the Complaint as filed because the agent was an authorised agent at the time the complaint was filed. The Assessment Review Board Complaint was filed on March 4, 2013 by Altus Group Ltd. on behalf of Atrium Investment Corp. On March 13, 2013 the property transferred to the Complainant; 625 – 11TH Avenue SW Inc.

[4] The Board is unable to accept the Disclosure Document of the Complainant as it was filed by Altus Group Ltd. May 27, 2013 and they were not authorised agents for the Complainant on that date.

[5] There are no additional preliminary, procedural, or jurisdictional issues.

**Property Description:**

[6] The subject property is a three storey structure with mixed use of; office, retail, and restaurant space located between 4<sup>st</sup> Street and 5<sup>th</sup> Street SW along 11<sup>th</sup> Avenue. Graded at a B quality, the structure was constructed some 39 years ago in 1974 and is assessed as 26,636 square feet of office use, 1,333 square feet of restaurant, 6,449 square feet of retail space and with 52 underground parking stalls. The Respondent utilised the Income Approach to value to arrive at the assessment of \$11,730,000 using a capitalisation rate of 5.25%.

**Issues:**

[7] Numerous issues have been raised by the Complainant during the complaint process. The Board determined only one issue need a resolution; is a recent sale the best indication of value for assessment purposes.

**Complainant's Requested Value: \$7,260,000**

**Board's Decision:**

[8] The Board confirmed the assessment of the subject at \$11,730,000.

**Legislative Authority, Requirements and Considerations:****Court of Queen's Bench of Alberta**

697604 Alberta Ltd. v. Calgary (City of), 2005 ABQB 512 [Acton]

[24] ...I agree with the following comments from *Re Regional Assessment Commissioner, Region No. 11 v. Nesse Holdings Ltd. et al.* (1984), 47 O.R. (2d) 766 (Ont. H.C.J. Div. Ct.) at p. 767:

*It seems to me to be worth remembering that where the Assessment Act, R.S.O. 1980, c.31 requires the determination of what a property might be expected to realize if sold on the open market by a willing seller to a willing buyer (s. 18(2)), the price paid in a recent free sale of the subject property itself, where, as in this case, there are neither changes in the market nor to the property in the interval, must be very powerful evidence indeed as to what the market value of the property is. It is for that reason that the recent free sale of a subject property is generally accepted as the best means of establishing the market value of that property.*

...  
*...I think that generally speaking the recent sales price, if available as it was in this case, is in law and, in common sense, the most realistic and most reliable method of establishing market value.*

[25] *I also agree that where, as in this case, there is sufficient evidence of actual market value, there is no need to engage all of the factors set out in section 12 of the Regulation. I agree with the reasoning of Fraser J. in **Mountain View (County) v. Alberta (Municipal Government Board)**, supra, that where there is a conflict between the actual market value and the factors set out in section 12, the market value as defined by the Act should govern.*

**Position of the Parties****Complainant's Position:**

[9] The Complainant's complaint form indicated that the rental rates, vacancy allowances, and capitalisation rate are in error; however, no evidence or presentation is made to establish their claims.

**Respondent's Position:**

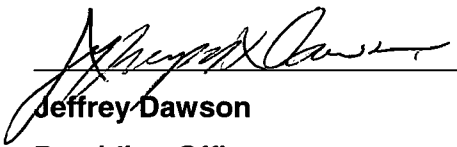
[10] The Respondent presented the Assessment Explanation Summary, the Assessment Request for Information document, the Beltline Office Rental Rate Study, and the Beltline Capitalisation Rate Study (R1 pp. 11-12, 17-18, 21-24, and 27-200).

[11] The Respondent provided information of a *post facto* sale of the subject in March 2013 for \$11,522,394 (R1 pp. 202-203). The Respondent noted that though *post facto* the sale amount is very close to the assessed value of \$11,730,000.

**Board's Reasons for Decision:**

[12] The Board considered the *post facto* evidence and testimony of the Respondent and found the sale value is very close to the assessment value, which supports the *Acton* decision; "...that generally speaking the recent sales price, if available as it was in this case, is in law and, in common sense, the most realistic and most reliable method of establishing market value."

DATED AT THE CITY OF CALGARY THIS 14 DAY OF August 2013.

  
Jeffrey Dawson  
Presiding Officer

## APPENDIX “A”

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

NO.	ITEM
1. R1	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.

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Low Rise	Income Approach	Action