



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:

1410 Investments Ltd.
(as represented by Altus Group Ltd.), 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:

ROLL NUMBER:	068243401
LOCATION ADDRESS:	1410 1 ST SW
LEGAL DESCRIPTION:	Plan 9111729; Block 1; Lot 2
FILE NUMBER:	71555
ASSESSMENT:	\$ 2,120,000

This complaint was heard on the 9th 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:

- *S. Meiklejohn* *Agent, Altus Group Ltd.*
- *M. Cameron* *Agent, Altus Group Ltd.*
- *D. Hamilton* *Agent, Altus Group Ltd. (departed prior to completion)*

Appeared on behalf of the Respondent:

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

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

[1] The Complainant and Respondent requested that all evidence, discussion, questions and answers heard during decision CARB 71535P-2013 on the capitalisation rate issue be incorporated into this hearing.

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

Property Description:

The subject property is comprised of a two storey, 7,584 square foot, single tenant office building located between 14th Avenue and 15th Avenue SW along 1st Street. Graded at a B quality, the structure was constructed some 63 years ago in 1950 and contains seven surface parking stalls. The Respondent utilised the Income Approach to value to arrive at the assessment using a capitalisation rate of 5.25%.

Issues:

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

Complainant's Requested Value: \$1,230,000

Board's Decision:

[4] The Board found the correct assessment of the subject to be \$1,230,000 changing all parameters as requested by the Complainant.

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:

- [5] The Complainant reviewed the subject assessment details, the requested assessment parameters and the details regarding the open market sale of the subject property (C1a pp. 32-40).
- [6] The Complainant provided a copy of the *Acton* decision with highlights to show that the courts have decided the issue of a recent sale on a subject property (C1a pp. 41-47).
- [7] The Complainant testified that their request is based on the actual sale and the parameters chosen, the C quality parameters in BL2, best reflect the actual condition of the subject, concluding that the correct assessment is \$1,230,000.

Respondent's Position:

- [8] The Respondent did not specifically address the issue of the sale, but instead indicated that their income approach to value calculated the assessment at \$2,120,000 and requested confirmation.

Board's Reasons for Decision:

- [9] The Board reviewed the Disclosure Document of the Respondent and found information regarding the subject sale with one typed note on page 268, stating; "*Not purchased for cash flow*" (R1 pp. 260-268).
- [10] The Board accepted the Complainant's requested C quality parameters and assessment of \$1,230,000. The sale of the subject was \$1,200,000 – very close to the requested 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.	C1a Complainant Disclosure – pages 1-122
2.	C1b Complainant Disclosure – pages 123-148
3.	C1c Complainant Disclosure – pages 149-212
4.	R1 Respondent Disclosure
5.	C2 Complainant Rebuttal

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