

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:

906-8TH AVENUE S.W. GP INC.
(as represented by Altus Group Ltd.), COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

J. Dawson, PRESIDING OFFICER
D. Steele, BOARD MEMBER
S. Rourke, 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:	201571023
LOCATION ADDRESS:	906 8 AV SW
FILE NUMBER:	72651
ASSESSMENT:	\$ 25,260,000

This complaint was heard on the 12th day of June 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:

- *D. Hamilton* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

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

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

- [1] 1) Both the Complainant and the Respondent requested that all evidence, testimony, questions, and answers be carried forward from decision number CARB 72289P-2013.
- [2] 2) There are no additional preliminary, procedural, or jurisdictional issues.

Property Description:

[3] The subject property contains two structures; an office building and a freestanding parking structure. It is located at the corner of 8st Street and 8th Avenue SW in downtown Calgary submarket zone of DT2. There are two assessments created for this property. The assessment before the Board deals only with a portion of the parking structure and none of the office building. There are 274 assessed parking stalls and the property is graded at a B quality.

[4] The Respondent utilised the Income Approach to value to arrive at the current assessment:

Parking stall rental rate:	\$400 per month
Capitalization rate:	5.00%
Assessment:	\$25,260,000

Issues:

- [5] 1) Applied capitalization rate for the parking structure,
- [6] 2) Assessed rental rate for the parking stalls, and
- [7] 3) The inclusion of a 40% operating cost allowance.

Complainant's Requested Value: \$ 12,330,000

Board's Decision:

[8] The Board finds the subject parking structure to exhibit characteristics more consistent with D quality parking structures. Making a change to D quality grading, results in an assessed rental rate of something less than \$375 per stall. The Board finds \$300 per stall with zero operating cost allowance to be a fair and equitable rental rate value for the subject assessment. The Board finds the capitalization rate of 5.0% best reflects the risk involved with this parking structure on July 1, 2012.

	Assessed	Board Decision
Quality Grading:	B	D
Parking Stall Rental Rate:	\$400	\$300
Operating Cost Allowance:	0%	0%
Capitalization Rate:	5.00%	5.00%
Assessment:	\$25,260,000	\$19,720,000

Legislative Authority, Requirements, and Considerations:**The Municipal Government Act [*the Act*]**

Chapter M-26, Section 460, Revised Statutes of Alberta 2000

Interpretation

1(1) *In this Act,*

- (n) *"market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;*

Interpretation provisions for Parts 9 to 12

284(1) *In this Part and Parts 10, 11 and 12,*

- (r) *"property" means*
(i) a parcel of land,
(ii) an improvement, or
(iii) a parcel of land and the improvements to it;

Decisions of assessment review board

467(3) *An assessment review board must not alter any assessment that is fair and equitable, taking into consideration*

- (a) *the valuation and other standards set out in the regulations,*
 (b) *the procedures set out in the regulations, and*
 (c) *the assessments of similar property or businesses in the same municipality.*

Matters Relating to Assessment and Taxation [MRA7]

Alberta Regulation 220/2004 with amendments up to and including Alberta Regulation 330/2009

Mass appraisal

- 2 *An assessment of property based on market value*
- (a) *must be prepared using mass appraisal,*
 - (b) *must be an estimate of the value of the fee simple estate in the property, and*
 - (c) *must reflect typical market conditions for properties similar to that property.*

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

[9] The Complainant provided the 2013 Property Assessment Notice (C1, p. 21) to show the change in assessment; \$25.3 million in 2013 versus \$16.8 million in 2012. While a 50.0% increase is not reason in itself to complain about the assessment – it is an indication that perhaps there is something wrong.

[10] The Complainant demonstrated with income statements (C1, p. 19) that the subject's actual rental revenue is \$293 per stall with 55% operating costs. The Complainant explained that based on location, income and other factors that a fair assessment would be \$375 per stall with 40% operating cost allowance and a capitalization rate of 6.00%. Support for that position is found in evidence when analysing DT2, 3 and 9 above ground parking rates (C2, p. 63). The capitalization rate request for the subject parking structure is based on consistency with the previously cross-referenced request in decision number CARB 72289P-2013.

[11] The Complainant insists that the Respondent stratify the parking structure for the subject as a freestanding parking structure, versus an office building with parking, because they operate as two distinct operations. A typical office building with attached parking does not need an operating cost allowance because the tenants pay for the operating costs within their common area maintenance fees; however, a freestanding parking structure has no means to recover their operating costs other than through parking revenues.

[12] On the basis that the subject should be a freestanding parking structure, the Complainant continued to challenge the methodology utilised by the Respondent to arrive at the 4.50 % capitalization rate for freestanding parking structures. The Respondent analysed a single sale; Bow Parkade at 231 6th AV SW (C3, p. 4), a 56 year-old parking structure graded as an A quality, which sold in April 2012 for \$90,000,000 with 1,010 parking stalls. The Respondent's analysis indicates that a 4.29% capitalization rate was realised by the terms of the sale. The Complainant argues that the sale does not meet the definition of a market sale because the purchaser was highly motivated – the purchaser controlled the remainder of the block and had already received development approval for a 1.2 million square foot office complex. By purchasing the parking structure the purchaser can alter their development plans to build a 2.6 to 2.8 million square foot office complex (C3, pp. 7-28). The Complainant presented another sale that shows the relationship between an office building and a parking structure (C3, pp. 29-52). The sale of Altius Centre included a second property, which is a parking structure. In this case, the Respondent assessed the office building as an A quality with a capitalization rate of 6.00 % and the parking structure is assessed as an A quality with a 4.50% capitalization rate. Commercial Edge (C3, p. 34) reports this sale at a 6.35% capitalization rate.

[13] The Complainant concluded their presentation with a request to leave the quality grading unchanged, alter the rental rate to \$375 per parking stall, provide for 40% operating costs and to alter the capitalization rate to 6.00 % resulting in a requested assessed value of \$12,330,000.

Respondent's Position:

[14] The Respondent explained that all office buildings with parking are stratified in the same manner and to assess the subject property differently would create an inequity. The Respondent cautioned the Board by reading *the Act* section 467(3) wherein a Board must not alter an assessment that is fair and equitable.

[15] The Respondent briefly reviewed the capitalization rate study, which includes sixteen sales (R1, pp. 17-215). Their analysis of B quality office buildings with parking indicates a range between 4.65 and 5.07% for the capitalization rate. On that basis, the Respondent has assessed all B grade office buildings with a 5.00% capitalization rate.

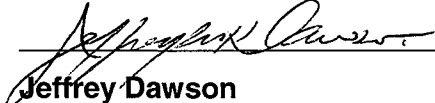
[16] The Respondent argued that the subject is graded properly, the rental rate is correct at \$400 per month per stall and the capitalization rate is correct at 5.00% and asked the Board to confirm the assessment.

Board's Reasons for Decision:

[17] The Board considered the stratification presented by the Respondent and agreed that to stratify the subject differently could create an inequity. However, the Respondent does have the ability to assess a different quality grade for the parking structure than the office building. Based on the factors considered when stratifying a structure, including revenue generation, it appears that the parking structure, in this case, is off the charts and suffers from unique circumstance that may necessitate the creation of a lower grade, perhaps D, for the subject. In the interim, the Board decided that \$300 per stall is an appropriate rate for D quality parking.

[18] The Board accepts the results of the capitalization study because it was not challenged and seems to be complete. The Board finds the correct capitalization rate for the subject is 5.00%.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF July, 2013.


Jeffrey Dawson

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure – subject
2. C2	Complainant Disclosure – parking study
3. C3	Complainant Disclosure – capitalization rates
4. R1	Respondent Disclosure
5. R2	Assessment Request for Information [ARFI]
6. C4	Rebuttal 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	Other Property Types	Parking	Income Approach	Rental Rate
				Capitalization Rate