



**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:**

**1500074 ALBERTA LTD.**  
**(as represented by Altus Group Limited), COMPLAINANT**

**and**

**The City Of Calgary, RESPONDENT**

**before:**

**Ms. V. Higham, PRESIDING OFFICER**  
**Mr. D. Pollard, BOARD MEMBER**  
**Mr. E. Reuther, BOARD MEMBER**

This is a complaint to the Calgary Assessment Review Board (the Board) in respect of a property assessment prepared by the Assessor of The City of Calgary (the City) and entered in the 2013 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>201104668</b>
<b>LOCATION ADDRESS:</b>	<b>1069 – 10<sup>th</sup> Street SW</b> <b>Calgary, Alberta</b>
<b>FILE NUMBER:</b>	<b>73050</b>
<b>ASSESSMENT:</b>	<b>\$3,990,000</b>

This complaint was heard on 15th day of July, 2013 at the office of the Calgary Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainants:

- **Mr. Kam Fong**                      **Agent for the Complainant, Altus Group Limited**
- **Mr. Doug Main**                      **Agent for the Complainant, Altus Group Limited**

Appeared on behalf of the Respondent:

- **Ms. Bernice Tang**                      **Assessor, City of Calgary**

**Procedural or Jurisdictional Matters:**

- [1]      There were no preliminary matters before the Board.

**Property Description:**

- [2]      The subject property is a main floor retail condominium (condo) situated in a mixed-use, commercial-residential high-rise building on 10<sup>th</sup> Street and 10<sup>th</sup> Avenue in the city's Beltline economic zone. Constructed in 2006, the property comprises 9,541 square feet (sf) of main floor space, registered on title as a strata plan unit.

**Issues:**

- [3]      The Complainant identified two issues on the Complaint Form as under appeal, that being the assessment amount and assessment class. During the hearing the Complainant indicated he was requesting a different valuation amount than noted on the Complaint Form, and indicated he was prepared to speak to only the following issues before the Board:

- 1) Is the subject property equitably assessed relative to similar condo units in the proximate vicinity?
- 2) Is the subject property best assessed on the direct-sales or the income approach to value?
- 3) Should the subject property be assessed based on the requested rate of \$350 per-square-foot (psf)?

**Complainants' Requested Value:** \$3,330,000

**Board's Decision:** For the reasons outlined herein, the Board confirms the current assessment of the subject property at **\$3,990,000**.

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

[4] The Complainant submitted that the subject property is inequitably assessed in excess of market value relative to similar condo properties in the Beltline region, owing to the fact that the City improperly assessed the parcel using the income approach rather than the industry standard direct-sales approach for condo properties.

[5] The Complainant argued that a rate of \$350 psf should properly be applied to the subject unit, which he argued looks and functions in every respect as a typical condo unit. He further argued that the subject property has been assessed as a condo unit using the direct-sales approach to valuation every year up to and including 2009 – submitting a 2009 Board decision as evidence of that fact (ARB 0770/2009-P, Exhibit C1, pp.9-10). He argued that nothing has changed on the property to warrant the change in assessment valuation approach.

[6] The Complainant submitted a table of eleven retail-condo and two office-condo equity comparables in the Beltline region in support of his requested valuation (Exhibit C1, p.31), ranging in price from \$316 to \$370 psf, with a median of \$350 and a mean of \$343 psf. The subject is assessed at \$418 psf.

[7] The Complainant also submitted five retail condo sales comparables (Exhibit C1, pp.45-65), with a median value of \$456 and a mean of \$439 psf in support of his requested valuation.

[8] The Complainant further maintained that notwithstanding the fact that a number of his sales comparables sold for approximately \$422 psf, they were assessed at \$350 psf, which he argued evidences that the subject property is inequitably assessed relative to these similarly-situated properties.

**Respondent's Position:**

[9] The Respondent submitted that at some point after 2009, the City began assessing all strata plan units as single-standing properties, utilizing the income approach to value rather than the direct-sales approach, owing to the fact that these strata plan properties were realizing significantly higher sale values across the market than traditional condo units.

[10] Since the subject property is registered as a strata and not a condo plan, the Respondent argued that it is assessed fairly and equitably relative to all other strata properties in the city, and as such warrants no assessment variance.

[11] The Respondent argued that there are material differences in the title rights afforded a strata plan versus a traditional condo plan property, and noted that there are no condo fees or common space associated with strata plan properties as an example of this difference.

[12] In response to the Complainant's equity comparables, the Respondent argued that three of these comparables are significantly larger than the subject, being approximately double the subject size. The Respondent further argued that the Complainant's comparables were all for condo and not strata plan properties.

[13] In response to the Complainant's sales comparables, the Respondent argued that two of these were post facto the valuation date (dated August 21 and December 3 of 2012), that one was a portfolio sale, and that one was a strata plan sale assessed by the City on the income approach, just like the subject property.

[14] The Respondent concluded by noting that both the direct-sales and income approach evidence submitted by the City supports the current assessment for the subject property.

**Board's Reasons for Decision:**

[15] Having carefully reviewed the evidence presented by both parties, the Board finds that notwithstanding the fact that the subject property may look and function as a condo unit, it is nonetheless registered on title as a strata plan property, and as such enjoys the full bundle of rights associated with this unique designation.

[16] Upon review of the *Land Titles Act* Chapter L-4, Section 86, Revised Statutes of Alberta (RSA) 2000 and the *Condominium Property Act*, Chapter C-22, Section 6, RSA 2000, the Board finds that strata plan properties are distinguishable from traditional condo plan units in at least the following ways:

- 1) No condo fees charged to tenants;
- 2) No value component attributable to common space charged to tenants;
- 3) No condo board required;
- 4) No condo bylaws required.

[17] Upon questioning, the Complainant was unable to confirm whether or not condo fees are charged to the existing tenant or if there exists any common space in the subject property. In the absence of evidence to distinguish the subject as anything but a typical strata plan property, the Board cannot reasonably conclude that it should be assessed as an effectual condo unit, and finds that the subject is equitably assessed relative to other strata plan properties in its class.

[18] With respect to the second issue raised by the Respondent, it is outside the mandate of this Board to dictate to or direct the City relative to valuation methodologies. Rather, the Board adjudicates each appeal on the best evidence presented on a case-by-case basis.

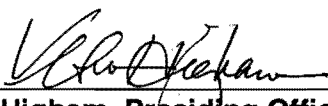
[19] In this case, the Complainant produced no evidence to distinguish the subject as an atypical strata plan property to justify his request for a direct-sales approach to valuation as an effectual condo unit; nor did the Complainant provide any arguments to establish that strata plan units are improperly assessed using the income approach to value, or that a different valuation methodology is warranted for strata properties.

[20] On a review of the evidence submitted, the Board finds that the Complainant's own sales comparables support the Respondent's case, justifying the current assessment with a median of \$456 and a mean of \$439 psf compared to the subject's \$418 psf, and concludes that the Respondent's evidence (both equity and sales data) represents the best indicator of value for the subject property in this case.

**Board's Decision:**

[21] For the reasons outlined herein, the Board confirms the current assessment of the subject property at **\$3,990,000**.

DATED AT THE CITY OF CALGARY THIS 9<sup>th</sup> DAY OF August 2013.

  
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V. Higham, Presiding Officer

## APPENDIX "A"

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainants' Disclosure
2. 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.*

**For Administrative Use Only**

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Commercial	Retail Condo	Market Value	Equity, Direct Sales