



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:

1640650 ALBERTA LTD. (Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Weleschuk, PRESIDING OFFICER

H. Ang, BOARD MEMBER

T. Livermore, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER:	067036806
LOCATION ADDRESS:	1104 6 Avenue SW
FILE NUMBER:	73266
ASSESSMENT:	\$3,130,000

This complaint was heard on 2nd day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *M. Cameron*

Appeared on behalf of the Respondent:

- *E. Borisenko*

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

- [1] Neither party objected to the members of the Board, as introduced, hearing the evidence and making a decision regarding this assessment complaint.
- [2] The Board noted that their file included a completed copy of the Assessment Review Board Complaint form and Assessment Complaints Agent Authorization form.
- [3] The Complainant Rebuttal was disclosed late (due June 24; received June 28) as a result of the Altus Group Limited (Altus) offices being closed for a number of days due to the flooding in downtown Calgary. The Respondent did not object to the Rebuttal being entered as evidence, given the circumstances.
- [4] No preliminary issues were raised by either party.

Property Description:

- [5] The subject property is located at 1104 6 Avenue SW, at the west end of the downtown core (Sub Market Area DT8). It is a two storey, stand alone building with a total of 7,565 square feet (SF) of assessable area on the two levels. The building was originally built in 1910 but has undergone a number of renovations. It is currently used for commercial retail purposes, with a restaurant on the main level (Mewata Station) and pub (Upper Deck) on the upper level. The current assessment is \$3,130,000, using an Income Approach.

Issues:

- [6] Does the assessed value reflect the market value of the property?

Complainant's Requested Value:

\$2,700,000

Board's Decision:

- [7] The Board reduces the 2013 assessed value to \$2,700,000, the price paid for the property in December 2011.

Legislative Authority:

- [8] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that 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. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

Issue 1: Does the assessed value reflect the market value of the subject property?**Complainant's Position:**

- [9] The Complainant presented information related to details of the sale of the subject property (page 21-23, Exhibit C1). The property sold on December 19, 2011 for a price of \$2,700,000, which included 100% fee simple interest between two unrelated parties. The property was brokered by the Advent Commercial Real Estate Group. According to comments in the RealNet Transaction Summary sheet (page 22, Exhibit C1) the building was in good condition at the time of sale and did not require any significant capital expenditure.
- [10] The Complainant presented a number of court and previous Board decisions where the sale of the subject property that occurred near the valuation date was accepted as being the best indication of value. The Complainant noted Court of Queen's Bench of Alberta Decision 2005 ABQB 512 wherein Madam Justice Acton stated that the Board must have regard for the sale price of a subject property when considering the assessed value of that property if that sale transaction meets the statutory definition of market value. (Page 27-32, Exhibit C1)
- [11] The Complainant acknowledged that the municipality is required to do its assessments using a mass appraisal approach, which may not provide the flexibility to use actual sales of subject properties. That notwithstanding, the Complainant argued that the assessment standard is market value. The subject sale meets the criteria of a market value transaction, therefore the sale price is the best indication of market value before the Board.

Respondent's Position:

- [12] The Respondent stated that the subject is a commercial property, therefore the income approach is the most appropriate method to determine value, using mass appraisal. This ensures equitable assessments for all properties in that assessment class.
- [13] The Respondent presented the subject Assessment Request for Information (ARFI) that demonstrated that the rental rates the municipality used in its income calculation were similar to the actual rental rates being achieved in the subject building.
- [14] The Respondent acknowledged that the sale was considered a valid sale by the City and used in its analysis (page 15, Exhibit R1). The Respondent argued that the market had increased between the date of sale and the valuation date, and that the value of the property likely had increased, however, because there were too few sales in this time period in this assessment district, a time adjustment could not be quantified.
- [15] The Respondent presented previous Board Decisions that concluded that a sale price may not always be the best indication of value.

Findings of the Board on this Issue:

- [16] The Complainant provided evidence to demonstrate that the sale of the subject property in December 2011 met the definition of market value. The Respondent concurred that the sale was valid and used the sale as part of its analysis in preparing 2013 assessments. The Board finds that the subject sale meets the test of market value.
- [17] The sale date is December 2011, some six months prior to the valuation date of July 1, 2012. While there was some discussion regarding the need for a time adjustment, neither party presented any evidence regarding what, if any, time adjustment should be applied. As no evidence regarding a time adjustment was presented, the Board finds that the sale price represents the value of the subject property as of the valuation date.

Board's Reasons for Its Decision

- [18] The sale of the subject (December 2011) occurred about six months prior to the valuation date (July 1, 2012). The sale price meets the definition of a fair market value, with two sophisticated and unrelated parties transferring 100% of fee simple ownership without any undue motivation on either part. No evidence was presented to show that a time or any other adjustment to the sale price need be applied to reflect the value of the property as of the valuation date. The Board concludes that the best indication of market value is the sale price of the subject property. For this reason, the Board reduces the 2013 assessed value to \$2,700,000, the price paid for the property in December 2011.

DATED AT THE CITY OF CALGARY THIS 26th DAY OF July 2013.



Ivan Weleschuk

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant 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.*

MGB Use Only:

CARB	Retail	Stand alone	Income approach vs Sale Price	Market rents
------	--------	-------------	-------------------------------	--------------