

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:

Samuel Bell (as represented by Altus group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

P. McKenna, BOARD MEMBER

A. Zindler, 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:	126046200
LOCATION ADDRESS:	2515 90 AV SW
FILE NUMBER:	73671
ASSESSMENT:	\$8,710,000

This complaint was heard on the 9th day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6

Appeared on behalf of the Complainant:

- A. Izard (Altus Group Ltd)

Appeared on behalf of the Respondent:

- R. Urban (City of Calgary)

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

- [1] There were no concerns with the board as constituted, after Mr. Zindler advised the parties that he is familiar with some of the Bell family members.
- [2] The Complainant has visited the site, while the Respondent has not.
- [3] The parties have discussed the file.

Preliminary Matter:

[4] The Complainant, on page 13(C-2), provided a copy of a letter to the City of Calgary dated February 23, 2013, which outlined the Complainant's request for additional information pursuant to section 299 of the Municipal Government Act (MGA). The Complainant, on pages 23 through 71(C-2), provided a copy of the City of Calgary response dated March 26, 2013. The Complainant submitted that, the Respondent's Disclosure (R-1) contains information related to 523 WOODPARK BV SW (which appears on pages 14, 15 and 16) that was not included in the City of Calgary response. The Complainant, citing 9(4) of Matters Relating to Assessment Complaints Regulation (MRAC), requested that the board not hear any evidence with respect to that property.

[5] The Respondent acknowledged that the information in question had not been included in the City's response letter dated March 26, 2013.

[6] The Board granted the Complainant's request and determined it would not consider any of the evidence with respect to 523 WOODPARK BV SW that appears on pages 14, 15 and 16 of R-1. MRAC 9(4) requires that: "*A composite assessment review board must not hear any evidence from a municipality relating to information requested by a complainant under section 299 or 300 of the Act but was not provided to the complainant*".

Property Description:

[7] The subject property is a 4.16 acre parcel located in the Oakridge community in SW Calgary. The site is improved with two buildings commonly known as Oak Bay Plaza. One building is 35,088 square feet (sf), was constructed in 1971 and is considered to be B- quality while the second building is 3,583 sf, was constructed in 1985 and is also considered to be B- quality. The subject is assessed using the Income Approach to value.

Issues:

[8] An "assessment amount" and "an assessment class" were identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely: "the assessed rental rate for 'CRU space 2,501 – 6,000 sf' at the subject should be no higher than \$16psf". That space is currently assessed at the rate of \$19.00 psf.

Complainant's Requested Value: \$6,690,000 (Complaint Form)
\$8,450,000 (Hearing)

Board's Decision:

[9] The 2013 assessment is reduced to \$8,450,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000, Section 460.1:

- (2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection(1)(a).

MGA requires that:

293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

- 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.
- 4(1) The valuation standard for a parcel of land is
 - (a) market value, or
 - (b) if the parcel is used for farming operations, agricultural use value.

Board's Decision in Respect of Each Matter or Issue:

Issue: What is the market net rental rate to be applied to the CRU 2,501 – 6,000 sf space, in the Income Approach to value, to determine the market value of the subject property, for assessment purposes.

Complainant's Position:

[10] The Complainant's Disclosure is labelled C-1.

[11] The Complainant, at page 28, provided a table titled, 2013 CRU Rental Rate Analysis (CRU 2,501 – 6,000 sf). The table contains information on 9 leases with lease start dates ranging from April 1, 2010 to June 1, 2012. The Complainant noted the lease rates range from \$15.00 to \$28.50 psf with a median lease rate of \$16.00 psf, which supports its request for an assessed rate of \$16.00 psf. The Complainant submitted the property at 819 49 AVE SW (lease rate of \$28.50 psf) is an outlier and it was assessed as an 'A' quality in previous years.

Respondent's Position:

[12] The Respondent's Disclosure is labelled R-1.

[13] The Respondent submitted there is a hierarchy of rates for the CRU spaces, for assessment purposes and that reducing the rate to \$16.00 psf would result in the CRU 2,501 – 6,000 sf spaces having the same market net rental rate as the CRU 6,001 – 14,000 sf spaces. In addition, the CRU 2,501 – 6,000 sf spaces are assessed different rates depending on the quality of the strip centre, specifically: 'B' quality are assessed at the rate of \$21.00 psf, 'B-' quality are assessed at the rate of \$19.00 psf and 'C+' quality are assessed at the rate of \$16.00 psf. The Respondent submitted that reducing the rate for the subject would create an inequity in the market.

[14] The Respondent, at page 14, provided a table titled, Lease Comparables CRU 2,501 – 6,000 sf. The Respondent acknowledged that if the lease information for 523 WOODPARK BV SW were removed, as per the preliminary matter, the parties would be relying on the same evidence. The Respondent advised that with the removal of the lease information for 523 WOODPARK BV SW the average lease rate would be \$18.16 psf and the median lease rate would be \$16.00 psf. In response to a question, the Respondent acknowledged that the median is typically used for assessment purposes.

Complainant's Rebuttal Position:

[15] The Complainant's Rebuttal Disclosure is labelled C-2.

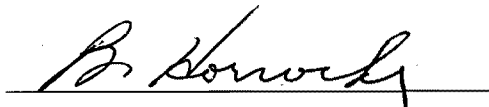
[16] The Complainant, at page 72, provided a table titled Lease Comparables CRU 2,501 – 6,000 sf, noting that with the removal of the lease at 523 WOODPARK BV SW, the parties would be relying on the same evidence. The median lease rate of the comparables is \$16.00 psf.

Board's Reasons for Decision:

[17] The Board finds the Complainant's evidence more compelling. The median lease rate of \$16.00 psf supports the request. In addition, there is no evidence from the Respondent to support the assessed rate of \$19.00 psf.

[18] The market net rental rate to be applied to the CRU 2,501- 6,000 sf space is \$16.00 psf.

DATED AT THE CITY OF CALGARY THIS 14th DAY OF November 2013.



B. Horrocks

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

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

Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Strip Plaza	Income Approach	Rent rate