



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:

Lemonade Capital Group (as represented by Altus Group Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***F. Wesseling, PRESIDING OFFICER
K. Farn, BOARD MEMBER
P. Cross, 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 2014 Assessment Roll as follows:

ROLL NUMBER: 081082703

LOCATION ADDRESS: 1832 27 Ave SW

FILE NUMBER: 74541

ASSESSMENT: \$1,230,000

This complaint was heard on 6 day of August, 2014 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:

- *J. Weber, Agent, Altus Group Ltd*

Appeared on behalf of the Respondent:

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

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the Act). The parties did not object to the panel representing the Board as constituted to hear the matter. No procedural or jurisdictional matters were raised and the merit hearing proceeded. The Complainant and Respondent agreed that the market information presented for file 75474 be carried forward for this file.

Property Description:

[2] The subject property is a small, older style apartment building containing 9 units (6 bachelor and 3 one bedroom). The property is valued on the income approach. The property contains 0.14 ac or 6,420 square feet. The City of Calgary Land Use Bylaw designates the property Multi- Residential Contextual Low Profile District.

Issues:

[3] The Complainant raised the following matter in Section 4, item 3 of the Assessment Complaint form: Assessment amount

[4] The issues were further clarified as: Market Rental rates for one bedroom and bachelor units.

Complainant's Requested Value: \$1,069,181

Board's Decision:

[5] Upon reviewing the evidence provided by the parties, the Board found that the Complainant demonstrated that the assessment was in excess of market value.

[6] The Board establishes the assessment at \$1,069,000.

Legislative Authority, Requirements and Considerations:

[7] Both parties submitted background information in the form of photographs, aerials, site maps as well as evidence on the issues at hand. In the interest of brevity, the Board will restrict its comments to those items the Board determined to be relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

The Board was presented with a number of previous decisions of the Assessment Review Board. While the Board respects the decisions rendered by those Boards, it is mindful that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. This Board will therefore give limited weight to those decisions, unless the issues and evidence are shown to be timely, relevant and materially similar to the subject complaint

Position of the Parties

Complainant's Position:

[8] The Complainant claims that the rental rates applied in the assessment calculation for the subject property are not indicative of market rental rates. In particular, the complainant is requesting that the rental rate for one bedroom units be \$838 instead of \$925 while for the bachelor units the rate be \$715 rather than \$850. In support of the request, the Complainant presented a current rent roll for the property.

[9] The rent roll evidence indicated an average rent of \$838 per month for one bedroom unit while the average monthly rent for a bachelor unit was \$715. An extract from the *Alberta Assessors Association Valuation Guide* (AAAVG) was presented. Highlighted was Section 3.0 *Determining Market Rents* which indicates the best evidence of market rents are the actual leases signed on or around the valuation date. It is the Complainant's position, that in accordance with AAAVG, the best evidence is the actual market rents as of the valuation date for the subject property.

[10] In **rebuttal**, the Complainant presented 3 previous ARB decisions which dealt with similar issues and evidence.

Respondent's Position:

[11] The Respondent presented a City wide rental analysis for one and two bedroom units. The subject site was included in the analysis. The analysis determined a value of \$925 per month for one bedroom units while bachelor units came in with a value of \$850 per month. In addition, the respondent presented four comparables (R1, p 23), which also included some different submarkets.

[12] The Respondent reiterated the requirements of mass appraisal as outlined under the Act. The impact on equity should actual market rents be applied in assessment was reviewed. It was further noted that no Assessment Request for Information (ARFI) has been received for this property since 2012

Board's Reasons for Decision:

[13] In reviewing the Respondent's evidence, in particular the 2014 Rental analysis, the Board determined that the data was significantly skewed by one property (5320 Lakeview Drive) resulting in higher weighted means for bachelor and one bedroom units. The subject property is not achieving typical market rents as established for assessment purposes.

[14] Based on the evidence provided by the Complainant and despite the fact that the owners did not submit an ARFI, the Board was convinced that a reduction in assessment was warranted.

DATED AT THE CITY OF CALGARY THIS 14th DAY OF September 2014.



F. Wesseling

Presiding Officer

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

NO.	ITEM
1. C1 Evidence Submission	Complainant Disclosure
2. C2 Rebuttal Evidence Submission	Complainant Disclosure
2. R1 Assessment Brief	Respondent 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.

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Decision No.		Roll No.		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Residentail	Assessment Value	Rental rates	Actual vs typical