

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:

Capreit Apartments Inc (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: 067144816

LOCATION ADDRESS: 1304 11 St SW

FILE NUMBER: 75481

ASSESSMENT: \$5,560,000

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.

Property Description:

[2] The subject property is located in the Beltline. The property contains a multi residential (32 units) high rise apartment building. The building was constructed in 1964 and is contained on a parcel of 0.32 acres. The City of Calgary Land Use Bylaw classifies the property Centre City Multi-Residential High Rise Support Commercial District.

Issues:

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

The issues were further clarified as: Sale price best indicator of market value.

Complainant's Requested Value: \$4,800,000

Board's Decision:

[4] Upon reviewing the evidence provided by the parties, the Board found that the Complainant failed to demonstrate that the assessment was in excess of market value.

[5] The Board confirms the assessment at **\$5,560,000**.

Legislative Authority, Requirements and Considerations:

[6] 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.

[7] 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 contends that the subject property is over assessed and since it was sold on the open market in April of 2011 for \$4,800,000 that the 2014 assessment should be based on the sale price. Evidence was provided by the Complainant that the City accepts the sale as an arms-length transaction and that it has been used in City analysis.

[9] In support of its position, the Complainant presented the "Acton" Court of Queen's Bench of Alberta decision dated July 2005 which supports the use of a recent sale price of a property for valuation purposes. In addition, a number of CARB decisions were pointed to where Boards supported the use of a recent sale to determine market value for assessment purposes.

Respondent's Position:

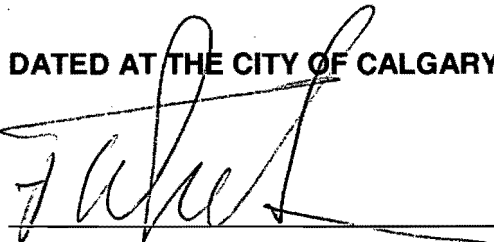
[10] The Respondent reviewed the mass appraisal requirements as outlined in the Act. The use of the sale information for the subject site has been used by the City in 2014 GIM Study-High Rise Mixed Use Core. The typical assessment parameters were reviewed. The City could not rely on the sale information solely to determine its assessment.

[11] It was noted that the City has not received an Assessment Request for Information for the subject property since 2010. In addition, the Respondent pointed out that the sale took place in 2011 and had not been adjusted for time to establish the requested assessment.

Board's Reasons for Decision:

[12] The only evidence provided by the Complainant for the Board's consideration was a two year old sale. In reviewing the Acton decision, there were numerous references to "recent" sale. In the Board's opinion, the sale presented for the subject property was dated and could not be considered recent. No information was provided to the Board with regard to time adjustments.

DATED AT THE CITY OF CALGARY THIS 12 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. 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.*

For MGB Administrative Use Only

<i>Decision No.</i>		<i>Roll No.</i>		
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Multi residential high rise	Assessment Value	Equity	Sale of property in 2011