



## **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:

***KS 618 5<sup>th</sup> Ave SW 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: 067230102**

**LOCATION ADDRESS: 618 5 Ave SW**

**FILE NUMBER: 75482**

**ASSESSMENT: \$69,710,000**

This complaint was heard on 5th 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:**

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:**

[1] The subject property is located in downtown Calgary. The property contains a 28 story former hotel which is in the process of being converted into a residential building. In addition to the residential rental units the building contains retail space as well as a parking structure on the bottom floors. The site consists of 1.35 acres and the improvements were constructed in 1965. The City of Calgary Land use Bylaw classifies the property CM-2 Downtown Business District.

**Issues:**

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

The issues were further clarified as: The building is in the process of being converted and at the time of assessment was only partially completed

**Complainant's Requested Value:** Three requests were outlined to the Board for consideration.

- **Request #1 --\$47,834,736 based on assessment amount minus profit and cost to complete.**
- **Request #2 -- \$53,795,256 based sale amount minus mold and asbestos remediation.**
- **Request #3 -- \$48,797,000 based on assessment amount minus 30% adjustment.**

**Board's Decision:**

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

[4] The Board establishes the assessment at **\$56,600,000**

**Legislative Authority, Requirements and Considerations:**

[5] 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.

[6] 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:**

[7] The Complainant indicated that there were no issues with the assessment parameters for the 2014 assessment of the subject property. Recognition, by means of some adjustment to the assessment, is being sought to acknowledge the major transition taking place in the subject property. The assessment, according to the Complainant, must reflect the complete value of the building as of July 1, which is not the case in this situation.

[8] Evidence was provided on the cost of construction and the requirement to deal with mold and asbestos issues. The mold and asbestos issues were apparently not known to the owner at the time of purchase. The current costs incurred in the transition of the building have been \$9.2 million and an additional \$11.4 million is required to complete. Approximately \$2.8 million will be required to mitigate the mold and asbestos issues encountered.

[9] As of July of 2013 the residential component of building was 92 % vacant. By December of 2013 the building was still 74% vacant. The Complainant presented information (C1, P37-38) to show that precedent had been established when the City provided adjustments for condition for various industrial properties,

[10] On questioning, the Complainant indicated that request #1 for \$47,834,000 was the most amenable.

[11] 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. The property sold in February of 2012 for \$56,600,000. 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.

[12] In **rebuttal**, the Complainant provided evidence on a 20% reduction to the office rental rate from \$26 to \$21 per square foot. In addition, a previous CARB decision with regard to

unfinished office space was reviewed.

**Respondent's Position:**

[13] The Respondent acknowledged the sale of the property in the previous year as being an arm's length transaction. It was further acknowledged that the building is in transition and significant construction was taking place in 2013. The decision to convert the building was a management decision and the respondent pointed to various CARB decisions where this type of transition does not affect the assessment.

[14] The Respondent noted that the assessment parameters for the subject property were not challenged

**Board's Reasons for Decision:**

[15] The Board rejected the three requested assessment amounts outlined by the Complainant due to incompleteness of evidence provided for each of those alternatives. While cost to complete and remediation costs were provided in general terms The Board was in no position to substantiate the accuracy of the figures provided. The request for a 30% adjustment was considered arbitrary and again not based on sound financial information.

[16] The only solid information the Board had in terms of this assessment complaint was the sale price dating back to February 2012. It was recognized the sale data of the building was sound that the transition of the building from a hotel to residential use is a substantial undertaking and that at the time of assessment income generated was significantly curtailed.

DATED AT THE CITY OF CALGARY THIS 9<sup>th</sup> DAY OF September 2014.



F. Wesseling

Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1 Evidence Submission	Complainant Disclosure
2. C2 Rebuttal Evidence Submission	Complainant Disclosure
3. 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

Decision No.		Roll No.		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Residential	Assessment Value	Conversion at time of assessment	Construction cost to complete and remediate mold and asbestos issues