



**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:

***BPCL Holdings 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: 065048605**

**LOCATION ADDRESS: 3380 Spruce Dr SW**

**FILE NUMBER: 75483**

**ASSESSMENT: \$41,720,000**

This complaint was heard on 5 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. Parties requested that the evidence provided for this file be cross referenced with file 75914.

**Property Description:**

[2] The subject site is located in the community of Spruce Cliff and consists of 4.52 acres. The site has been developed with 4 low rise apartment buildings constructed in 2002. In 2012 an additional low rise apartment building containing 109 units was constructed. This building received an occupancy permit in December of the assessment year. The City of Calgary Land Use bylaw classifies the property Direct Control (DC) 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: Equity with other similar properties.

**Complainant's Requested Value: \$34,408,000**

**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 **\$41,720,000**.

**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 outlined the situation that the new building is in the process of being completed. As of July 1 the actual vacancy for the building was 78 % and that a final construction completion certificate was not received till October of the assessment year. The property was available for residents to move into on December 1, 2013.

[9] As the building has very limited income in the valuation year. The Complainant is requesting a temporary vacancy rate be applied. In particular a vacancy rate of 20% is suggested. On questioning the Complainant admitted that the rate requested was arbitrary. The rent roll for the new building was presented and reviewed.

**Respondent's Position:**

[10] The Respondent acknowledged that it is a new building and that it will take some time for it to be fully occupied. A discussion with regard to mass appraisal requirements was outlined and the impact on equity should actual site specific situations be applied in terms of assessment. City's assessment, in accordance with the Act, is based on typical values and mixing it with actual values and issues is not appropriate.

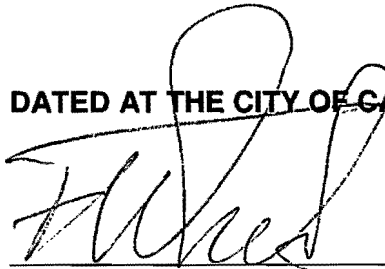
[11] The Respondent presented the 2014 Multi-Residential Vacancy Summary. The subject property was utilized in the analysis with a reported vacancy of 0.85%. The typical vacancy rate utilized for assessment purposes for this type of building is 3%.

**Board's Reasons for Decision:**

[12] The building is completed and in the process of being occupied. It is the Board's opinion that the market value of the building is not impacted by this process and that "temporary" adjustments are not warranted.

[13] Both the Complainant and Respondent provided information indicating that the current rental market is strong supporting the fact that the building's value is not impacted by a temporary high vacancy.

DATED AT THE CITY OF CALGARY THIS 18<sup>th</sup> 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

Decision No.		Roll No.		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Residential	Assessment Value	Vacancy rate	Building under construction till December of assessment year.