

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:

3414493 Canada 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: 111043105

LOCATION ADDRESS: 6707 Elbow Drive SW

FILE NUMBER: 75590

ASSESSMENT: \$68,520,000

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

Property Description:

[2] The subject property is known as as Mayfair Place. The building contains retail, office and residential space. The building was constructed in 1971 and contains 272 residential units and has over 128,000 sq ft of commercial/retail space. At issue is the assessment for the 42,605 sq feet of retail space. The Calgary Land Use Bylaw classifies the property Commercial-Corridor 2.

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: the retail rental rate applied to generate the assessment should be \$15 per square foot instead of the \$18 per square foot.

Complainant's Requested Value: \$66,760,000

Board's Decision:

[5] 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.

[6] The Board confirms the assessment at **\$68,520,000.**

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.

[8] 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:**

[9] The subject property contains a significant multi use complex containing residential, office and retail land uses. The issue, identified by the Complainant as one of equity, is with the retail component. The request is for the retail rate applied to determine the assessment be amended from \$18 per square foot to \$15 per square foot. All the other variables are not at issue.

[10] In support of its position the Complainant presented the assessment information for Kingsland Shopping Centre. This retail area is in close proximity to the subject property. The "big box" component was compared to the retail space in the subject property and it was assessed at \$15 per square foot.

Respondent's Position:

[11] The Respondent provided extensive background and analysis on how the City arrived at retail rates applied in the assessment for multi-family residential mixed use developments. It was noted by the Respondent that no ARFI had been received for the property although 2014 rent roll information was presented.

[12] The Respondent took exception to the comparable provided by the Complainant. It is felt that Kingsland Shopping Centre is a stand alone community shopping centre and as such from an assessment perspective substantially different from retail space located in the bottom of a large residential high rise.

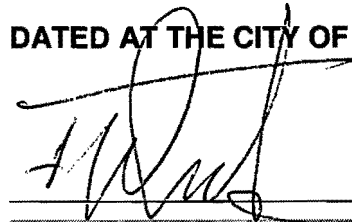
Board's Reasons for Decision:

[13] The comparable evidence provided for the Board's consideration by the Complainant was limited and in the view of the Board dissimilar from the subject property. The two properties are substantially different in terms of function, form and performance.

[14] The Respondent was able to show that the actual rental income achieved for the retail

space in the subject property is in excess of the rental rates applied for assessment purposes.

DATED AT THE CITY OF CALGARY THIS 9th 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>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Multi Use Building	Assessment Value	Retail rental rate	Typical vs actual