



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:

Thorburn Capital Corporation. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

**R. Fegan, PRESIDING OFFICER
T. Livermore, BOARD MEMBER
A. Wong, 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:	067895748
LOCATION ADDRESS:	102 632 8 AV SW
FILE NUMBER:	75614
ASSESSMENT:	\$457,500

This complaint was heard on the 12th day of June, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- S. Meiklejohn, (Agent, Altus Group)

Appeared on behalf of the Respondent:

- B. Tang, (Assessor, City of Calgary)

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

- [1] No procedural or jurisdictional matters were raised.

Property Description:

- [2] The subject property is a commercial condominium unit located on the ground floor of a 7 storey building, built in 1951 and renovated in 2008. Unit # 102 consists of 1,582 square feet on the ground floor. The building was originally a single titled office building with retail space on the ground floor and office space on the upper floors. The building now has condominium titles with a total of ten condominium units, four of which are retail units on the ground floor and six office units on the upper floors as well as ten titled parking stalls. Unit 102 is the subject of this complaint.

Issues:

- [3] The primary issue is the correct market value of the subject condominium unit.
- [4] The secondary issue is which approach to value is best suited for the determination of market value, the direct sales comparison approach or the income approach.

Complainant's Requested Value: \$350,000.

Board's Decision:

The complaint is allowed and the assessment is set at \$350,000.

Legislative Authority, Requirements and Considerations:

The Act, Section; 290(1) *"Assessment of condominium unit; each unit and the share in the common property that is assigned to the unit must be assessed (b) in any other case as if it is a parcel of land and the improvements to it".*

AR 220/2004 (as amended) (MRAT)

Valuation standard for a Parcel of Land.

- 4(1) *"The valuation standard for a parcel of land is (a) market value".*

Position of the Parties**Complainant's Position:**

[5] It was the Complainant's position that the method of assessment should be based on the quantity and quality of data available for analysis in order to estimate the value of the property.

[6] The Complainant felt that there were no truly comparable sales for use in estimating the value of the subject property. In this case, due to the characteristics and location of the subject property more income data was available for analysis than sale data.

[7] The Complainant believed that both the retail space and the office space in the subject property should be compared to similar retail and office space in Class "C" buildings in the area identified as DT-2 (Downtown 2).

[8] For the purpose of the value estimate the Complainant relied upon all of the valuation parameters used by the Respondent in their value estimates for single titled Class "C" retail space and office space in DT-2 (Downtown 2)

[9] The Complainant provided a summary of the Sun Life Case (Montreal vs Sun Life Assurance 1952). In that case the House of Lords heard an appeal from the Supreme Court of Canada. The decision provided a hierarchy of methods which were most suitable for estimating market value:

"A recent sale of the property itself where neither the conditions of the property or the market have changed."

"recent free sales of identical properties in the same neighbourhood."

"recent free sales of comparable properties".

"the price which the revenue producing possibilities of the property will command".

"the depreciated replacement cost".

[10] The Complainant drew the Board's attention to page 15 of exhibit R-1 which indicated that the entire property (all 10 units) were encumbered by a single mortgage.

Respondent's Position:

[11] The Respondent pointed out that although the subject property was constructed in 1951 it had been renovated in 2008. The Respondent classified the subject as a Class "C" commercial condominium unit.

[12] It was the position of the Respondent that the direct comparison approach was the most appropriate method to estimate the value of the subject property. The Respondent made the argument that because of a higher ratio of owner occupancy in commercial condominiums that income data was limited and therefore the income approach was not appropriate.

[13] The Respondent also made the point that the capitalization rate for commercial condominiums may well be different than the capitalization rate for rental buildings with a single title.

[14] The Respondent provided a "test" of the effectiveness of the Complainant's approach to valuing the subject property by comparing the Complainant's requested assessment to the 2014 assessed value.

[15] The Respondent provided a chart with five Class "C" commercial condominium sales to support the assessed value of the subject. Only two of the five sales were in the district known as DT2 (Downtown 2). The sale dates ranged from July 2010 to October 2012 and the prices ranged from \$87,375 to \$1,200,000. The 2014 assessed amounts ranged from \$42,500 to \$1,390,000. In some cases the 2014 assessed values were significantly higher than the earlier sale price and in one case the 2014 assessed value was dramatically lower than the earlier sale price.

[16] The Respondent also provided sales information taken from Dragon City Mall in Chinatown and Class "A" buildings in Downtown and the Beltline as well as four sales of Class "B" buildings in DT2 and DT9.

[17] The sale prices of the Class "B" buildings ranged from \$190,000 to \$1,390,000 and the sale dates ranged from November 2010 to March 2013. The years of construction of these buildings ranged from 1979 to 1999.

Board's Reasons for Decision:

[18] The Board acknowledges that there are a number of "approaches to value" that can be used by an assessor. One of the primary considerations in determining which approach is most appropriate for each property type is the quantity and quality of data available for analysis.

[19] The Board took note of the hierarchy referred to by the House of Lords in the Sun Life case; sale of the subject, sale of identical property, sale of similar property, income and depreciated cost. There was no sale of the subject property and there was no sale of an identical property; that led the Board to consider the sale of similar properties. The Respondent provided a large number of sales of commercial condominium units and the Board examined these sales to determine their comparability to the subject.

[20] The Board found location was a significant factor in the valuation of commercial real estate and rejected sales taken from Chinatown and the Beltline. The Board rejected the use of sales of Class "A" and Class "B" units.

[21] The Board did not rely on the "test" performed by the Respondent because it was based on the 2014 assessed value rather than the time adjusted sale price, also the Board did not have any information regarding how the time adjustments were calculated or applied.

[22] The Board found that the sale of 100 1010 8 AV SW, in October of 2012, was the closest comparable sale to the subject property. That unit sold for \$213.01 per square foot, nine months prior to the effective date. The time adjusted sale price of this unit was \$224.43 per square foot.

[23] This figure (\$224.43) is very close to the estimate provided by the Complainant (\$221.24) using the income approach. In this case, the Board found that the income approach using the Respondent's Class "C" parameters supports the time adjusted sale price of the most similar condominium.

[24] In making its decision the Board considered the decision of the Court of Appeal of Alberta, in Loughheed & Company v. Calgary (City of), 2003 ABCA 232. That decision dealt with a residential condominium complex in downtown Calgary in which all of the units were owned by the same owner and the complex was operated as a rental building. The Board found that this decision did not prevent this Board from narrowing down the selection of comparable properties or from using the income approach as a check on the direct comparison approach.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF July 2014.



R. Fegan

Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	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.*

CARB Identifier Codes

Decision No.		Roll No.		
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Commercial	Condominium	Market Value	Approach to value

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