



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:

***First Capital Holdings (ALB) Corporation (as represented by Altus Group),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, P. Pask
Board Member, J. Lam***

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: 067188201

LOCATION ADDRESS: 880 - 16 Avenue SW

FILE NUMBER: 76154

ASSESSMENT: \$37,160,000

This complaint was heard on the 15th day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *K. Fong, Agent, Altus Group*

Appeared on behalf of the Respondent:

- *H. Yau, Assessor, City of Calgary*

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

- [1] There were no procedural or jurisdictional matters raised by either party.

Property Description:

- (2) The subject is a retail office complex known as Mount Royal Village, located in the Beltline district of SW Calgary. The project contains 96,268 square feet (s.f.). The building was built in 1978 and is classified as an A2 quality retail office. The assessable land area is 0.60 acres.

Issues

- (3) The property is assessed using the income approach. The total assessment calculates to \$37,160,000, or \$386.00 per s.f.. The Complainant does not have an issue with the valuation method.
- (4) The Complainant brought forward two issues. Firstly, the assessment is in excess of market value in light of the fact that the subject sold in 2011 for \$35,111,000, including the adjacent London Drugs building, and 223 titled parking stalls.
- (5) The Complainant's second issue is the fact that the subject is undergoing a major renovation, and as of December 31, 2013, only 39,713 s.f. were capable of being rented at a typical rental rate. The balance of the building was capable of producing a rent no higher than the typical storage rate of \$5.50 per s.f.

Complainant's Requested Value: \$19,430,000

Board's Decision:

- (6) The assessment is reduced to \$19,430,000.

Legislative Authority, Requirements and Considerations:

- (7) This Board derives its authority from section 460.1(2) of the Act.

(8) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAT), states as follows;

"An assessment of property based on market value

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property"

(9) Section 467(3) of the Act states;

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(c) the assessments of similar property or businesses in the same municipality."

(10) For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.

Position/Evidence of the Parties

(11) The Complainant presented the Board with the 2011 sales documentation confirming the sale of the subject and adjoining properties. None of this information was disputed by the Respondent.

(12) The Complainant's main point of contention was the subject's state of renovation as of December 31 of 2013. To this end, the Complainant submitted a summary of the building permits that have been issued for the subject property over the past three years.

(13) The Complainant also submitted a series of photographs that illustrate the unfinished nature of the subject's interior.

(14) The Respondent submitted the 2013 Assessment Request For Information form (ARFI) that showed the existing tenancy schedule for the subject, effective in May of 2011. This schedule, however, is two years dated as of the effective date of assessment, and simply indicates that many of the leases either expired or were due to expire during 2013.

(15) The Respondent did not dispute the fact that the subject was under renovation as of December 31, 2013. Nor did the Respondent dispute the fact that much of the subject could not have been leased at typical rates on December 31, 2013.

(16) Rather, the Respondent argued that the owners had not been compelled to renovate, and that, indeed, the entire renovation program was motivated by the potential of higher rents and greater profits in the future, and for that reason, the City was not required to reduce the assessment in the interim renovation period.

(17) The Respondent produced a summary of building permits issued for the subject that totalled \$8,169,078. The Respondent indicated that these permit values supported the position that the renovations were profit motivated.

Findings and Reasons for Decision:

(18) The fact that the subject traded hands in conjunction with adjacent properties in 2011 might well indicate that the existing assessment does not properly reflect market value. However, that fact essentially became a non-issue for the purposes of this hearing.

(19) Put simply, this Board does not accept the Respondent's position. No doubt, the renovation program is profit motivated. However, section 289 (2) of the Act, states ;

"Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,..."

(20) The operative words are "physical condition". On December 31, 2013, most of the subject's interior was unrentable at typical office or retail rates. The Act does not state that motivation can be considered as a mitigating factor.

(21) The Complainant adopted a typical storage rental rate of \$5.50 per s.f. as being appropriate for the space under renovation. There was no alternative rent offered in evidence, so the board accepts that rate to be applied in the income capitalization calculations.

(22) Using the storage rate, the revised income calculations produce a revised assessment of \$19,430,000.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF Aug, 2014.

Presiding Officer

for 
Jerry Zezulka

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
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| 1. | C1 Complainant Disclosure |
| 2. | R1 Respondent Disclosure |
| 3. | C2 Complainant Rebuttal |

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.*

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Decision No. CARB 76154P/2014			Roll No. 067188201	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail office	Market Value	Income Approach	Condition on December 31