

**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-26.1, Section 460(4).

**Between:**

***Altus Group, COMPLAINANT***

**and**

***The City of Calgary, RESPONDENT***

**before:**

***T. Hudson, PRESIDING OFFICER***

***D. Julien, MEMBER***

***C. McEwen, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>100009901</b>
<b>LOCATION ADDRESS:</b>	<b>6324 10 Street SE</b>
<b>HEARING NUMBER:</b>	<b>59755</b>
<b>ASSESSMENT:</b>	<b>\$12,010,000</b>

This complaint was heard on June 8<sup>th</sup> and 9<sup>th</sup>, 2010 at the office of the Assessment Review Board located at 4<sup>th</sup> Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *Mr. Randall Worthington*
  - *Mr. Graham Kerlake*
- Both representing Altus Group Inc.*

Appeared on behalf of the Respondent:

- *Ms. Kelly Hess*
  - *Mr. Marcus Berzins*
  - *Mr. Jason Lepine*
- All representing the City of Calgary*

**Property Description:**

The subject property is a multi tenanted industrial warehouse building (IWM) constructed in 1977 and located in the Central Industrial Region's Burns Industrial District of southeast Calgary at 6324 – 10<sup>th</sup> Street SE. The building has one floor and a small mezzanine area with a total net rentable area of 162,843 square feet with 10% office finish. The building is located on a 7.11 acre site, with site coverage of 51.30%. It is assessed at \$73.00 per square ft. of net rentable area for a total assessment of \$12,017,569, rounded to \$12,010,000. The complainant requests the assessment be reduced to \$65 per square ft. or \$10,580,000.

**Issues/Grounds for Complaint:**

- 1) The subject property is assessed in contravention of section 293 of the MGA and Alberta Regulation 220/2004.
- 2) The use, quality and physical condition attributed by the municipality to the subject property is incorrect, inequitable and does not satisfy the requirement of section 289(2) of the MGA.
- 3) The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
- 4) The information requested from the municipality pursuant to section 299 or 300 of the MGA was not provided.
- 5) The characteristics and physical condition of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, management, non-recoverables and cap rates; indicating an assessment market value of \$65 per square ft.
- 6) The rent needed to achieve the subject assessment value is unattainable in the market for the subject property.
- 7) The assessment regression model used is incorrect and does not accurately reflect the market value for the subject property.
- 8) The assessment regression model method has not properly grouped and analyzed the sales specific to each strata of industrial property groupings.
- 9) The sales used in the assessment regression model have not been appropriately adjusted to reflect market conditions.
- 10) The sales used in the assessment regression model have included sales that should not be considered in determining market value of the subject property.
- 11) The aggregate assessment per square foot is inequitable with assessments of both similar and competing properties and should be \$65 per square ft.

**Board's Findings in Respect of Each Matter or Issue:**

Part 11 Section 460 (5) of the MGA specifies the type of complaint to be adjudicated by Composite Assessment Review Board for non-residential properties; which included both vacant and improved industrial properties as follows:

"A complaint may be about any of the following matters shown on an assessment or tax notice.

- a) The description of a property of business.
- b) The name and mailing address of an assessed person or taxpayer.
- c) An assessment amount.
- d) An assessment class.
- e) An assessment sub-class.
- f) The type of property
- g) The type of improvement
- h) School support
- i) Whether the property is assessable
- j) Whether the property or business is exempt from taxation.

In the view of the Board the only matter raised by the complainant which falls within the scope of MGA Section 460 (5) is the fairness and equity of the assessment amount prepared for the subject improved industrial property located at 6324 – 10<sup>th</sup> Street SE.

The MGA Section 467 (3) says:

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

- a) The valuation and other standards set out in the regulation.
- b) The procedures set out in the regulation  
and
- c) The assessments of similar properties or businesses in the same municipality.

The Board examines the assessment in light of the information used by the assessor and the additional information provided by the complainant. The complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities and renders a decision to alter or confirm the assessment prepared by the assessor.

The legislation and attendant regulations do not identify the valuation approach chosen by an assessment authority to prepare assessments for non-residential property to be the subject of a complaint to or adjudication by a Composite Assessment Review Board. Assessors routinely use any and/or all of the three generally accepted valuation approaches to property assessment (i.e. the direct sales comparison approach, the capitalized income approach or the cost approach.) to establish values. Complainants also agree to challenge these values by using any and/or all of these approaches.

In short, the Board does not intend to identify preference on the valuation approach used by either of the parties to this complaint, or any of the other complains which fall within the scope of MGA Section 460 (5). Composite Assessment Review Boards judge the fairness and equity of the assessments which result from the valuation process, not the valuation process itself. The process is subject to audit under MRAT Article 10 with respect to quality standards, but not to complaint adjudication by CARB's.

Given these findings the Board will respond only to the issue(s) of the fairness and equity of the assessment amount prepared by the assessor for the subject property at 6324 – 10<sup>th</sup> Street SE as compared to the assessment amount requested by the complainant. Specific findings for items # 3, #4, #5, #6 and #11 listed in EX IC follow. Response to items #1, #2, #7, #8, #9 and #10 are covered by the foregoing finding as outlined.

**Issue #3**

The Board concurs.

**Issue #4**

The Board was advised by the parties at the hearing that disclosure under 299, 300 of the MGA was no longer an issue in respect of the subject property.

**Issue #5 and #6**

The Board finds that the most significant factor in dispute between the parties is the rental rate applied in the income approach to value prepared by the complainant for the subject property. The complainant applied a rental rate of \$5.25 per square foot of net rentable area (i.e. 162,843 sq. ft.). This rate represented the median of eight leases in industrial properties from the northeast and southeast regions and one lease from the central region where the subject is located. The location factor is significant because the parties generally agree that comparable industrial properties in the central region achieve higher rental rates than those in the other regions. The one lease from the central region (i.e. 303 – 58<sup>th</sup> Avenue) shows a current rate of \$6.25 per sq. ft. The ARFI for the subject property also indicated that the \$5.25 rate is probably low for comparable properties in the central region. However, the evidence is inconclusive at best with respect to the market value rent for the subject.

**Issue # 7**

The Board finds the sales evidence submitted by the respondent in support of the market value assessment of the subject property to be weak at best. Although all of the comparable sales are of industrial properties of 100,000 square feet of net rentable area or greater; the median values for the key valuation factors show the comparable sales to be of larger sites (i.e. 8.55 acres vs. 7.11 acres); lesser site coverage (i.e. 46.02% vs. 51.30%); much newer (i.e. YOC 2002 vs. YOC 1977); lower in terms of office finish (i.e. .01% vs. 10%); and much higher in terms of time adjusted sale price (i.e. \$103 psf vs. \$73 psf). Further, only one of the sales comparables is located in the central region (i.e. 3 Freeport Way NE) a 10.26 acre site, with 44% site coverage, built in 2006 with a NRA of 199,772 sq. ft. and a time adjusted sale price of \$128 per square foot. In addition the appellant raised some doubt about the reliability of three (3) of the sales comparables (i.e. 2340 – 22 Street NE, 5300 – 86<sup>th</sup> Avenue SE and 5667 – 69 Avenue SE). On the other hand, the complainant did not submit any sales evidence in support of their requested assessment prepared using the income approach (i.e. \$65 per square foot). The conclusion of the Board is that the market value of the subject property is difficult to determine based on the evidence sales.

**Issue #11**

In contrast to the inconclusive market value evidence submitted by the parties, the Board finds the equity comparables submitted by both parties to be compelling. The equity comparables submitted by the complainant that are located in the central region support a median assessed value of \$70 per square foot. The equity comparables submitted by the respondent all of which are located in the central region support a median assessed value of \$75 per square foot.

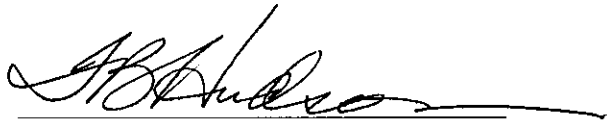
**Decision:**

The assessment is confirmed at \$12,010,000.00

**Reasons for the Decision:**

The lack of compelling market evidence left the Board with little option but to evaluate the equity of the assessment in relation to the assessments of similar properties in the same market area. The assessment of the subject at \$73 per square foot falls within the range of \$70-\$75 per square foot for similar properties in the same market area.

MAILED FROM THE CITY OF CALGARY THIS 23 DAY OF June 2010.



**T. Hudson**  
**Presiding Officer**

TH/kc

*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.*