

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER

J. Rankin, MEMBER

B. Kodak, 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:

ROLL NUMBER:	033029554
LOCATION ADDRESS:	4204 – 10 Street N.E.
HEARING NUMBER:	57654
ASSESSMENT:	\$2,220,000

This complaint was heard on 23 day of June, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *G. Kerslake – Representing Altus Group Inc.*

Appeared on behalf of the Respondent:

- *M. Berzins – Representing the City of Calgary*

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

The Complainant raised a Preliminary Issue concerning evidence that the Complainant sought to place before the Board and the admissibility of that evidence. Some of that evidence was said to concern the application of the "Direct Comparison Approach to Value" versus other approaches to value. The Respondent objected to the admission of that evidence on the basis that similar evidence had been heard and rejected by another panel of the Composite Assessment Review Board (CARB). CARB Order #0522/2010-P clearly states that the Board will not identify a preference as to which valuation approach should be used to determine the assessed value of any property. It is the assessed value of the property that this Board is authorized to adjudicate. If any party can satisfy the Board, to the extent required by law, that in application of any applied approach to value errors have been made that have resulted in an incorrect assessed value, then it is those errors, supported by market based evidence, that should be given consideration. The Board stressed that market evidence is normally required to support any contention that an error has been made. Ideology is not a basis for complaint.

Having said that the Board decided to allow the Complainant to call evidence but pointed out that the Board would not hear:

1. Evidence that seeks to question the legitimacy or validity of the valuation model.
2. Evidence that seeks to question the Mass Appraisal process.
3. Evidence that seeks to question the permitted methodologies that are used in the Mass Appraisal process.
4. Evidence that seeks to question the choice made by the assessor as to which standard method of valuation has been applied in any particular case.
5. Evidence that seeks to advance any purely academic or theoretical argument as to the application of these standard methods of valuation.

The reason the Board chose not to hear the above listed (1 to 5) evidence is that these valuation methods, models, processes, standard methods, methodologies and allowances are all either specifically or contextually legislated and the Board cannot disregard, deny, or deviate from prescriptions of the legislation.

The Board was prepared to hear relevant evidence as to any arguable error that the assessor may have made in application of their valuation approach which resulted in an incorrect assessed value, provided that same was supported by market based evidence. Of course the Board was also prepared to hear any other relevant evidence.

Property Description:

The property under complaint consists of an industrial warehouse having a rentable building area 12,481 square feet and which was constructed in 1973. The property is single tenant occupied. The property is within the McCall Industrial Park in northeast Calgary.

Issues:

1. The subject property is assessed in contravention of Section 293 of the Municipal Government Act 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 298 (2) of the Municipal Government Act.
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 Municipal Government Act was not provided.
5. The aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties and should be \$140.
6. The aggregate assessment per square foot applied does not reflect market value for assessment purposes when using the direct sales comparison approach and should be \$141.
7. The characteristics & physical condition of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, mgmt., non recoverable and capitalization rates indicating an assessed market value of \$140.
8. The valuation method used for the subject property is fundamentally flawed in both derivation and application.

Complainant's Requested Value: \$1,830,000.

Board's Decision in Respect of Each Matter or Issue:

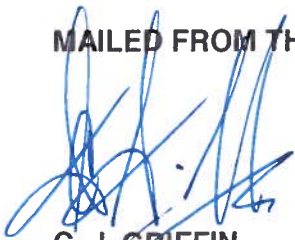
1. The Board does not agree with this contention of the Complainant as no evidence was provided by the complainant to indicate in what manner the assessment was prepared in contravention of Section 293 of the M.G.A.
2. The Board was not provided with any evidence or argument from the Complainant to support this issue.
3. The Board agrees with this assertion, assuming there is evidence to warrant a reduction; however, in this instance there was no persuasive evidence provided to warrant such a reduction.
4. The Complainant submitted no direct evidence or submission to support this contention. Accordingly the Board is not in a position to provide a determination on this issue, in this case.
5. The Complainant produced 4 equity comparables for the Board's consideration; however, the Assessor successfully discredited one of these comparables. The property located at 1323 – 36 Avenue NE was proven to be considered as land value only and thus should not be given consideration for equity purposes. Removing this property from the equity comparables presented by the Complainant resulted in the median value of the remaining equity comparables increasing to \$168/Sq. Ft. which equates to a value indication for the subject property of approximately \$2,096,000., significantly higher than the Complainant's requested value of \$140/Sq. Ft. Accordingly the Complainant's equity argument fails.

6. The Complainant introduced 7 sales to support their requested reduction in the assessed value of the subject property. The Assessor discredited the sale of the property located at 220 – 40 Avenue NE on the grounds that the reported sale price was incorrect and provided convincing evidence to the Board to support this contention. The sale relating to a property located at 2720 – 7 Avenue NE was proven by the Assessor to have been a non-arms length transaction that also involved a pre-dated Option to Purchase. The Assessor also discredited the sale of the property located at 1323 – 36 Avenue NE as being land value only and thus not comparable to the subject. Removing these sales from consideration resulted in the Complainant amending his median value indication to \$157/Sq. Ft., considerably higher than their requested \$133/Sq. Ft. As a result the Complainant's Direct Sales Approach argument fails in terms of the requested \$133/Sq. Ft.
7. The Assessor did not apply the Income Approach to derive the assessed value for the subject property but did bring forward argument as to the appropriateness of the applied Capitalization Rate as same was based upon a survey involving only 5 property sales. The Board looked to the value indication derived by the Complainant through application of the Income Approach, \$1,430,000 or approximately \$115/Sq. Ft. and found this value was not supported by the Complainant's own application of the Direct Comparison approach nor by their equity argument. An indicated value of \$115/Sq. Ft., as derived by the Complainant's application of the Income Approach, is well below their requested value of \$140/Sq. Ft. Accordingly the Complainant's argument that the value derived through application of the Income Approach is an accurate indication as to the market value of the subject property for assessed purposes fails to convince the Board.
8. The valuation method applied in this instance was the Direct Comparison Approach, which is sometimes referred to as the Direct Sales Approach or similar names. The use of this approach to value is contextually allowed in the legislation. The Complainant did not advance any persuasive argument or evidence to support the contention that an error had been made in the application of the Direct Comparison Approach in preparing this assessment.

Board's Decision:

The assessment is confirmed at \$2,220,000.

MAILED FROM THE CITY OF CALGARY THIS 30th DAY OF June 2010.



C. J. GRIFFIN
Presiding Officer

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.*