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 Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, Presiding Officer
K. Coolidge, Board Member
D. Pollard, 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 2010 Assessment Roll as follows:

ROLL NUMBER:	**201264629**
LOCATION ADDRESS:	**10351 – 46 Street SE, Calgary AB**
HEARING NUMBER:	**59114**
ASSESSMENT:	**$15,230,000**

This complaint was heard on the 16th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- D. Mewha

Appeared on behalf of the Respondent:

- I. McDermott, T. Woo

Property Description:

A single tenant industrial warehouse property on a 9.50 acre lot in the Dufferin industrial area of southeast Calgary. The building, constructed in 2009, contains a footprint area of 98,619 square feet and a rentable area of 102,979 square feet. Interior finish comprises 9.0% of rentable floor area. The site coverage ratio is 23.83%, less than what is considered typical (30%), therefore 1.95 acres of the land area are considered as extra land and an adjustment is made to the assessment for that extra land.

Issues:

The Complainant raised the following matters in section 4 of the complaint form: Assessment Amount *(No. 3 on form) and Assessment Class (No. 4 on form).*

The Complainant also raised the following specific issues in section 5 of the Complaint form:

- The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Regulation 220/2004
- 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 Municipal Government Act
- The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts
- The information requested from the municipality pursuant to Section 299 or 300 of the Municipal Government Act was not provided
- The aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties and should be $112
- The aggregate assessment per square foot applied to the subject property does not reflect market value for assessment purposes when using the direct sales comparison approach and should be $112
- The assessment regression model method used is incorrect and does not accurately reflect the market value for assessment purposes of the subject property

- The valuation method used for the subject property is fundamentally flawed in both derivation and application

- The characteristics & physical condition of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, mgmnt, non recoverables and cap rates, indicating an assessment market value of $95 psf

- The land adjustment is incorrect because the characteristics and physical condition of the property have not been appropriately considered

- The additional land adjustment is incorrect because of topography, rights-of-way influences, inability to sub-divide, encumbrances, shape, access, and other influences

At the hearing, not all of the above points were covered and several of them were grouped into the three major issues: 1) The direct sales comparison approach produces an excessive assessment, 2) The income approach is the best approach to use in assessing this property and 3) The subject assessment is inequitable with assessments of other, similar properties.

Complainant's Requested Value:

$8,300,000

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

Issues 1 and 2: Direct Sales Comparison Approach and Income Approach

The Complainant stated that the valuation methodology was an issue. The Direct Sales Comparison Approach produces an assessment that is excessive and the Income Approach will produce a more realistic and accurate assessment. Altus Group has argued this point at numerous hearings and several ARB decisions have been made in that regard. As a result, the Complainant did not go through the entire argument in detail but stated that the methodology was still an issue.

Portions of the Municipal Government Board Decision 041/06 were highlighted wherein the MGB stated that the direct sales approach has limited value in determining market value when there are insufficient sales of similar properties and that the income approach was appropriate for the property assessment under appeal at that time.

In the opinion of the Complainant, the mandate of the CARB is to adjudicate on the market value of the property. The Complainant must therefore present a case and in doing so, must address the valuation methods that have been or could have been used in making the assessment.

The Respondent addressed the issue of challenges to the assessment multiple regression model and the use of a direct sales comparison approach, citing various ARB decisions and documents prepared by the City of Calgary concerning the matter. It was concluded that the decisions made it clear that the ARB would not entertain challenges of that nature.

The CARB follows the direction provided by prior 2010 Calgary CARB decisions and does not concur with the Complainant's general argument regarding the superiority of the income approach for valuing all industrial properties. On a case by case basis, any valuation approach that is well founded and supported can produce a reliable estimate of property value. The Respondent currently employs a multiple regression model utilizing a sales comparison process and unless it is found that there is insufficient evidence to support a valuation by that method, it should be given precedence in making assessments of industrial properties in Calgary.

Following the above opening, the Complainant focused the evidence and argument on the subject property.

The Complainant addressed the adjustment to be made for the "extra" land area of 1.95 acres. This adjustment is made within the Respondent's valuation model so it is not known exactly what the dollar amount of the adjustment was for this assessment.

Citing City of Calgary documents regarding the treatment of additional or excess land for prior year's assessments, the Complainant determined that this 1.95 acres should be accounted for by an adjustment of $801,612, if the City's land rate of $1,050,000 for the first acre and $300,000 for additional acres is adopted. If a more realistic land value of $620,000 per acre is used, the adjustment would be $725,400. In prior years, the City had considered that a 29% site coverage ratio was typical for industrial properties. If the site coverage ratio for a particular property was less than 29%, then an adjustment was made. If the land had potential to be subdivided from the parent parcel, then "additional land" was the term used but if the subdivision would not be allowed, then it was deemed to be "excess land." Additional land was assessed at 100% of the land rate while excess land was assessed at 60% of the rate. Now, for 2010, the assessment summary shows 1.95 acres as "extra land" for the subject property. The typical site coverage ratio is now considered to be 30%. The Complainant treated this extra land in the same fashion as the City treated excess land in prior years. This meant applying an acreage rate to the land and then using just 60% of the value due to the inability to subdivide that acreage from the parent.

The Respondent did not directly address the Complainant's treatment of the extra land and provided no details regarding the adjustment made in the valuation model for the extra land in the subject assessment. It was revealed that for 2010, typical industrial building site coverage is considered to be 30%. For properties with less than that ratio of site coverage, a positive adjustment is made. Properties with a site coverage ratio greater than 30% are not adjusted.

The Complainant addressed the input components for application of the income approach. With regard to the rental rate, there was evidence of leases in other southeast Calgary industrial properties that lead the Complainant to a market or typical rental rate of $5.75 per square foot for the subject building. As an alternative, a rate of $7.50 per square foot was proposed. The 2010 Business Tax assessment is based on this rate and there have been a number of cases where assessment tribunals have determined that the business tax assessment rate (referred to as Net Annual Rental Value or NARV) should be the rate to use in application of an income approach for the property assessment of the same property. Complainants/Appellants/Respondents had agreed to this concept from time to time and ARB/MGB decisions were in evidence to support this.

A vacancy allowance was chosen from an analysis of third party market reports on the Calgary industrial market (in this instance, Colliers International and Altus-Insite). The 7.50% capitalization rate used by the Complainant was also selected from Colliers and Altus-Insite reports as well as a capitalization rate study undertaken by Altus Group.

Using what was described as a "backout" calculation based on the chosen vacancy allowance and capitalization rate and the 2010 assessment of $15,230,000, the Complainant found that the subject building would have to be rented at $11.68 per square foot in order to justify the valuation and there was no evidence available that could support that rent rate.

Using the above income approach input data and with the extra land adjustments as described previously, the Complainant arrived at suggested assessment values of:

> $8,301,916 using a $5.75/SF rental rate with $801,612 land adjustment;
> $8,225,704 using a $5.75/SF rental rate with $725,400 land adjustment;
> $10,584,617 using a $7.50/SF rental rate with $801,612 land adjustment; and,
> $10,508,405 using a $7.50/SF rental rate with $725,400 land adjustment.

The Respondent had not used an income approach in assessing this property so no input factor evidence was presented. During questioning, the dates of some of the Complainant's lease comparables was raised as a concern as was the similarity of some of the comparables to the subject. In particular, the Respondent pointed out that the April 1, 2009 lease rate for a northeast Calgary Wal-Mart warehouse of 302,135 square feet was $6.65 per square foot whereas the Complainant had selected just $5.75 as the rate for the subject.

The Complainant did not provide any sales of properties deemed comparable to the subject, however there was an analysis of the property sales used as large industrial comparables by the Respondent in various assessments (the Respondent only used three sales in evidence for this hearing). In all, there were nine sales that occurred between the dates of December 2006 and May 2009 (plus one August 2009 "post-facto" sale) analyzed. The analysis involved determining capitalization rates based on sales prices and typical rents and vacancies of each of the properties. The result showed that the earlier sales (2006-2007-2008) provided the lowest capitalization rates and that capitalization rates had clearly increased by 2009. Notwithstanding that the City had made time adjustments to the older sale prices, the sales still provided a value for the subject that was excessive. From the three sales considered by the Complainant to be most comparable to the subject property, the indicated valuation rates were $81, $86 and $114 per square foot of building area (mean average of $93.67/SF). Sales descriptive data for some of the Respondent's sales was included to further demonstrate the lack of comparability between those properties and the subject property.

The Respondent provided a chart showing details of sales of three large industrial properties that supported the 2010 subject property assessment of $147.89 per square foot of building area. Two of the sales occurred in August 2008 and the third one transacted in September 2008. Building areas were 91,064, 119,551 and 199,772 square feet. Years of construction were 1971, 1990 and 2006. All three were multi-tenant properties. Site coverage ratios were 35.83%, 26.41% and 44.71% (for 2010, typical site coverage ratio is considered to be 30%). Ratios of interior finish were 60%, 32% and 0.0%. Time adjusted sale prices were $147, $135 and $128 per square foot of building area. Two of the three properties were located in northeast Calgary industrial areas and the third was a property in the central Manchester area.

The Complainant raised concerns about the ages, sizes, locations and ratios of interior finish for the sale properties compared to those factors for the subject. The Respondent stated that northeast and central region locations were considered superior to a southeast location as are multi-tenant buildings versus single tenant buildings and that minor adjustments might be made for variances in interior finish, age and overall building size.

Issue 3: Equity

A chart in the Complainant's evidence provided data for five equity comparables. All of the comparables were located in subdivisions that were relatively near to Dufferin Industrial. Building sizes, from 96,905 to 164,604 square feet bracketed that of the subject. Years of construction for the comparables ranged from 1995 to 2007. Interior finish ratios were from 0.0% to 12%. Site coverage ratios were all above the typical level, ranging from a low of 35.35% to a high of 54.79%. The Complainant made adjustments to each of the comparables to compensate for the higher site coverage ratios compared to the subject's 23.83%. Before the adjustment, the assessments ranged from $81.69 to $114 per square foot of building area, with a median average of $95. After the site coverage adjustment, the range was from $102 to $131 per square foot with a median average of $119. The Complainant used the adjusted median rate to arrive at an equitable assessment of $12,254,501.

The Respondent's equity comparables comprised four properties, two of which were in Dufferin and two of which were in other southeast locations. Building sizes ranged from 86,515 to 212,232 square feet. Years of construction were from 1997 to 2006. Ratios of interior finish were from 5% to 29%. Parcel sizes were from 8.57 to 70.38 acres and site coverage ratios were all below the typical 30%, ranging from 10% to 27%. No extra land adjustments were detailed but it was presumed that adjustments had been made. Unit assessed values were $124, $139, $151 and $156 per square foot of building area, bracketing the $148 assessed rate for the subject.

Findings

In view of the above considerations, the CARB finds as follows with respect to Issues 1 and 2:

The CARB puts little weight on the three sales provided by the Respondent. The first sale is on 58th Avenue SE, a quasi-commercial/retail artery through the centrally located Manchester district. The other two are from northeast industrial areas which the Respondent stated are superior to a southeast industrial park. With the Manchester sale excluded and the others adjusted downwards for location, the result would come close to supporting the Complainant's requested assessment.

While the Complainant did not provide sales data, the analysis of the City's large industrial property sales was interesting. The CARB accepts that the most current sales should be weighted more than older ones. The two most current sales were 2009 sales. One did not transfer until mid-August, after the valuation date of July 1, 2009, however it does support the rate indicated by the May 2009 sale. The May 2009 sale involved a 1990 building in a northeast Calgary industrial area, representing a 57.21% site coverage ratio. While the date of sale may be relevant, there are significant variances between this property and the subject.

The CARB finds that there are insufficient sales of larger (over 100,000 square feet) industrial properties that can be used in a comparison process and that would provide a reliable value indicator for the subject property.

The Complainant's income approach was, for the most part, unchallenged by the Respondent. The Respondent did raise sufficient concern about the $5.75 per square foot rental rate used by the Complainant. The CARB agrees that the $7.50/SF NARV rate from the business tax assessment would be the most appropriate rental rate to apply to this property. The Complainant has made an adjustment for the low site coverage ratio of the subject property. The CARB accepts the adjustment that is based on the Dufferin land rate of $620,000 per acre. The Complainant's application of the income approach, using a $7.50 rent rate and $725,400 land adjustment is $10,508,405.

Overall, this assessment is supported by the Complainant's top three sales from the analysis chart. The average of the three unit rates is $93.67 per square foot but it is recognized that upwards adjustments would be necessary for factors such as site coverage ratio, building age and overall size. With those adjustments made, the value would tend to support the rate of $102 per square foot from the income approach valuation.

Issue 3: Equity

The comparables, except for the 70 acre property in the Respondent's submission, had some value in the consideration of the equality of the subject assessment. Both parties had some comparables that might be relied upon, however, the CARB could not clearly determine the adjustments for extra land, if any, that might have been included in the Respondent's comparables. Overall, the CARB was more satisfied with the valuation analyses than the equity analysis.

Board's Decision:

The 2010 assessment is reduced from $15,230,000 to $10,500,000.

DATED AT THE CITY OF CALGARY THIS 23 **DAY OF** September **2010.**

W. Kipp

W. Kipp
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.