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: **137042404**

LOCATION ADDRESS: **12181 – 44 Street SE, Calgary AB**

HEARING NUMBER: **59397**

ASSESSMENT: **$3,280,000**

This complaint was heard on the 18th 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:

- K. Gardiner

Property Description:

A single tenant industrial warehouse property comprising a 19,600 square foot building, constructed in 2005 on a 1.36 acre lot in the East Shepard industrial area of southeast Calgary (designated SO2 by the assessor). The ground floor area of the building is 16,000 square feet which represents a 27.03% site coverage ratio. 37% of the rentable area is finished as office space.

The property is assessed using a mass appraisal multiple regression model that applies a direct sales comparison approach. Because of the lower than typical site coverage ratio (27.03% vs. 30%), 0.21 of an acre is termed as "Extra Land" and an adjustment is made in the assessment model for this difference. The adjusted assessment represents a unit rate of $167 per square foot of building rentable area. Since the land adjustment is made within the assessment model, the amount of the adjustment is not indicated.

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 $140

- 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 $140

- 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 and 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 $133 psf

- The property details as assessed are incorrect and inconsistent with the characteristics and physical condition as defined by Section 289(2) of the Municipal Government Act. The details on the record, used to calculate the assessment are incorrect.

- The office finish ratio is overstated

At the hearing, the Complainant focused on 1) market value, suggesting that the income approach was a superior valuation method for this property; 2) the valuation of the "Extra Land"; and, 3) equity.

Complainant's Requested Value:

$2,800,000

Board's Decision in Respect of Each Issue:

Issue 1: Market Value

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 $11.00 per square foot for the subject building.

A vacancy allowance of 5.0% was chosen from an analysis of the market by Altus and from 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.

The calculation based on these input factors yielded a property value of $2,730,933 and once a land adjustment was added, the indicated property value was $2,809,053.

The Complainant also analysed the sales provided by the Respondent as support for the assessment. One of the sales, with significant interior development was leased at a base rate of $20 per square foot which showed its superiority to the subject. Another sale was shown to be the result of an agreement between parties wherein a business was purchased and the purchaser was given the option to acquire the real estate at a set price and that option was later exercised. In their analysis, the City made land adjustments to two other sales which were not necessarily considerations of the parties to the transactions. Once these sales were discarded or adjusted appropriately, the Complainant maintained that the sales all supported the requested assessment of $2,800,000.

The Respondent addressed the matter of valuation approaches, concluding that the City's mass appraisal multiple regression modelling of the direct sales comparison approach is an acceptable valuation method. That model is applied to almost all industrial property assessments in Calgary.

A table of data on seven industrial property sales in the Respondent's evidence indicated a range of assessment rates from $134 to $246 per square foot of rentable building area. From the sales, the median rate was $190 per square foot. In rebuttal, the Complainant pointed out shortcomings regarding comparability of some of the sales, as described above.

Issue 2: Extra Land

The Complainant made the land adjustment as an addition to the value indicator by the income approach by multiplying the 0.21 acre of extra land by a rate of $620,000 per acre and then taking 60% of that amount. The land rate was extracted from an analysis of five sales from southeast industrial parks. Four of the sales were from within the Dufferin Industrial area which adjoins East Shepard industrial. The other sale was in South Foothills. The 60% ratio came from a past practice of the City when adjustments were made for "additional land" or "excess land." The Respondent informed the CARB that the past practice is no longer used. While the Complainant maintained that $620,000 was the appropriate rate to use as a base rate for land in the subject area, an alternative calculation was made using the $1,050,000 base rate. This calculation indicated that an adjustment of $132,300 would be made.

The Respondent did not disclose the amount of the extra land adjustment from the assessment model. It was confirmed that 0.21 of an acre was considered as extra land because of the lower than average site coverage ratio (27.03% versus 30%). A table of land sales in the Respondent's evidence detailed four land sales, including the one in South Foothills that had been used by the Complainant (at $619,707 per acre). One other sale was from the Highfield industrial area in the Central industrial region of the city. The remaining two sales were from Valleyfield, a business/industrial park located north of Foothills Industrial. The Highfield sale, involving a 0.96 acre lot, indicated a time adjusted price of $1,406,250 per acre (the title transferred in June 2008). One of the Valleyfield sales was a 0.56 acre lot that transferred in June 2008. The time adjusted price indicated $1,254,480 per acre. The other Valleyfield sale was a 1.47 acre lot that sold in January 2008 and which had a time adjusted price of $840,382 per acre. The median price from these four sales was $1,047,431 per acre. For all southeast industrial areas, except for Dufferin, the City uses a land rate of $1,050,000 for the first acre of a site and $300,000 per acre for the balance of the site if it is over 1.0 acre in size. A second table of sales data for four properties was intended to show land values for parcels of less than 1.0 acre in size. Included were the Highfield sale and the smaller Valleyfield sale. Two others were from northeast Calgary industrial parks. These prices ranged from $1,089,450 to $1,693,023 per acre. The assessor did not elaborate on any relationships of any of these sales to the subject.

A large table of Dufferin land sales provided data on 17 lots from 0.865 acre to 9.503 acres that had sold between July 2007 and December 2008. Time adjusted prices per acre for these sales were from $524,834 to $768,180.

Through direct testimony or in response to questions, the Respondent stated:

- The abundance of sales in Dufferin showed that this area is different than other industrial areas but he did not know why;
- The intent of including the Highfield sale was to show that there is a premium paid for the first acre of a site;
- The Dufferin sales do not show that there is a premium paid for the first acre;
- An Assessment to Sales Ratio (ASR) study showed how the abundance of sales in Dufferin made it different than other industrial areas (no further details were provided);
- The lack of sales in the subject area shows why it is different than Dufferin.

The Complainant's position on land sales was:

- Dufferin land sales were the most comparable to the subject;
- Neither the Highfield sale nor the northeast Calgary sales are comparable to the subject;
- The abundance of sales in Dufferin was because that is where the available land was located;
- The lack of sales in the subject area was because there was only one undeveloped lot in the area;
- How can it be that improved Dufferin properties are comparable to the subject but Dufferin land is not (reference to the Respondent's equity comparables)

Issue 3: Equity

The Complainant provided four equity comparables from southeast Calgary industrial parks. The building sizes bracketed the subject's area but all were at least five years older and all had lower ratios of interior finish. From the data, median and average assessments were $143 and $144 per square foot of rentable building area. In making comparisons, the $78,120 land adjustment was made because the site coverage ratios of all four comparables were above 30%.

The Respondent provided six southeast Calgary industrial properties as equity comparables. The building sizes bracketed the subject's area. Years of construction ranged from 2001 to 2007. Interior finish ratios were from 22% to 54%. Site coverage ratios were from 23% to 30% and the Respondent stated that those with less than 30% coverage would have had their assessments adjusted accordingly. The median of the six comparables was $170 per square foot of rentable building area.

Findings with Reasons

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

The direct sales comparison approach is the appropriate valuation method for this property. The property is not unique. There are a number of sales of properties in the subject's size and class which can be used in a comparison process. While there may be few 2009 sales, the assessment is based on sales over a three year period leading up to the July 1, 2009 valuation date and the time adjustments applied to older sales have not been successfully challenged by the Complainant. The Respondent has chosen to prepare industrial assessments on a direct sales comparison approach and if data is available, those assessments should first be challenged on the basis of sales evidence. If there is a lack of reliable or comparable sales, then another valuation approach may produce a more reliable assessment.

The improved property sales provided by the Respondent are the better sales in evidence. There were, however, a number of problems with some of the sales and if those problem sales are eliminated or properly adjusted, the value indicator is in the order of the rate requested by the Complainant ($143 per square foot of building rentable area). In particular, the CARB found the properties at 7940 – 56 St SE and 3640 – 61 Ave SE to be the better comparables. Their time adjusted sale prices were $134 and $155 per square foot. If adjusted for age of building, site coverage ratio and so on, the requested rate is supported.

The land adjustment made by the Complainant based on Dufferin land sale prices is accepted. While the CARB doubts that participants in the market would make such an adjustment over a 3% variance in site coverage and given the shape, size and building location, it accepts the $78,120 adjustment. It is the finding of the CARB that the Dufferin land sales are indicative of the market in the southeast industrial area. Those sales occurred because that is where the vacant land was located. Sales in other regions, particularly the Central Region, cannot be said to be similar to lands in East Shepard.

From the perspective of equity, the comparables in evidence from the Respondent are preferable. They bracket the characteristics of the subject. Site coverage ratio is one of the primary factors for comparison and these comparables were most similar to the subject in that regard.

Notwithstanding that the Respondent's equity comparables tend to support the subject assessment, the market value evidence provides a supportable assessment that is lower. If appropriate adjustments are made to the sales in evidence from the Respondent, then the adjusted prices indicate that the requested assessment of $2,800,000 is reasonable.

Board's Decision:

The 2010 assessment is reduced from $3,280,000 to $2,800,000.

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.