

**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 LTD., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

S. Barry, PRESIDING OFFICER

R. Clark, MEMBER

D. Julien, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board (CARB) 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: 124187709

LOCATION ADDRESS: 9715 Horton Rd. S.W., Calgary, Ab

HEARING NUMBER: 59356

ASSESSMENT: \$2,730,000

This complaint was heard on the 20th day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *D. Mewha, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *P. Sembrat, City of Calgary*

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

There were no procedural or jurisdictional matters raised by the Parties.

Property Description:

The property is described as a multi-tenant warehouse containing approximately 16,000 sq.ft., built in 1974 and located in the Haysboro Industrial area of the Central Industrial, Non-Residential Assessment Zone on a 0.91 ac parcel. Site coverage is 20.24% and finished area is 77%. The land use district is I-G, Industrial - General.

Issues: The Complaint Form lists a number of issues or grounds for appeal. At the hearing, these were reduced to the following list:

1. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of the Canadian Courts.
2. The aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties and should be \$100. This was amended at the hearing to \$115.
3. 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 \$100. This was amended at the hearing to \$115.
4. The assessment regression model method used is incorrect and does not accurately reflect the market value for assessment purposes of the subject property.
5. The valuation method used for the subject property is fundamentally flawed in both derivation and application.
6. The characteristics & physical condition of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, management and non-recoverables and capitalization (cap) rates; indicating an assessment market value of \$93 per sq.ft.

After further review, the Complainant reduced these issues to:

1. Is the Respondent's valuation method for this property incorrect and inequitable using sales comparisons or should it be valued using the income approach?
2. If the Income approach is accepted, can the requested values of 5% vacancy rate, 8% cap rate and lease rates of \$9.75/sq.ft. be supported by the evidence?

Complainant's Requested Value: \$1,840,000

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

1. The Board recognizes that there are several legitimate methods of valuation that can be used by the Parties. Of key concern are the requirements of ss. 2 & 3 of *Matters Relating to Assessment and Taxation Regulation* (M.R.A.T) and s.289(2) of the *Municipal Government Act* (MGA). As to the first, the assessment must be based on market value, using mass appraisal and must reflect the value of the fee simple estate and typical market conditions. The valuation date is July 1 of the assessment year which, in this case is July 1, 2009. As to the second, the MGA requires that the assessment reflect the characteristics and physical condition of the property on December 31 of the valuation year. The assessment meets those criteria and the Board is not prepared, or even mandated, to direct the Respondent to use one method over the other. The Board can, however, evaluate the evidence in support of the Complainant's preferred method of valuation and determine if it demonstrates inequity or more correctly establish market value.
2. In addressing lease rates, the Complainant references eight leases in four properties, including two from the subject property and all located on Horton Road S.W. The buildings are all of a similar age and have lease start dates ranging from April 1, 2008 to December 1, 2009. The leasable areas range from 1,490 sq.ft. to 16,021 sq.ft. and produce lease rates ranging from \$7.75 to \$12.40 per sq.ft. The Complainant calculates the median rate at \$9.75 for these leases. The rent roll information for the subject property is presented for both February 2008 and December 2009, with the latter reflecting leases dating from May 2006 to October 2008 and rents ranging from \$7.00 to \$12.00/sq.ft.

The Complainant has relied on Colliers in accepting cap rates of 8% in older properties and a vacancy rate of 5% in the general industrial market for 2009.

With respect to equity, the Complainant identifies four properties on Horton Road ranging from 15,312 sq.ft. to 23,483 sq.ft. of similar ages. Two are single building properties and two are two building properties. For the two building properties, the split in assessment is not known. The percentage of finish ranges from 10% to 40% and site coverage ranges from 37% to 40%. The 2010 assessment for these properties ranges from \$101 to \$125 per sq.ft., making an equity assessment of \$114 as opposed to the City's assessment of \$172 per sq.ft. Rent rolls for the comparables either pre-date or post-date the valuation date and are not time adjusted.

The Complainant also submitted a 366 page rebuttal document that is intended to contest the City's valuation model. It relies heavily on third party reports, indications of decrease in market value and rents during the relevant period and the appropriateness of using the income

approach as opposed to sales comparisons. The comparables provided range throughout the industrial areas and are not necessarily closely related to the parameters of the subject property.

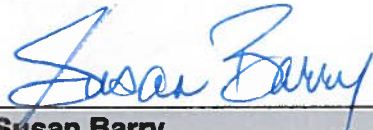
The Respondent has countered with a list of 10 sales comparables in the Central and SE zones that were drawn from the rolls using parameters similar to the subject: constructed prior to 1985; less than 2 acres and site coverage of less than 35%. The sales dates range from September 2006 to June 2008 and the sales prices are time adjusted. These sales are more difficult to evaluate because of size, age, site coverage and especially percent of finishing. However, bracketing the subject with those closest in each of the parameters results in a time adjusted sales price that supports the assessment. The Respondent's Equity Comparables, particularly 7515 and 7535 Flint Rd. S.E., support the assessed rate of \$172/sq.ft.

The onus is on the Complainant to show that the assessment does not reflect market value or that equity commands a lower assessment. The argument for a different valuation method fails for lack of good evidence related to the subject property. While the arguments could support the rental rate requested, the vacancy rate and cap rates are third party evidence not specifically related to the subject property or even the specific industrial area. The Respondent's comparables, particularly with respect to equity are solid, lying as they do within the Central Industrial Region with similar ages, size and other parameters.

Board's Decision:

The Board is satisfied that the assessment is correct and equitable and is, therefore, confirmed at \$2,730,000.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF October 2010.



Susan Barry
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

NO.	ITEM
1.	Complaint Form for Roll #: 124187709
2.	Complainant's Assessment Brief
3.	Respondent's Assessment Brief
4.	Complainant's Rebuttal Brief – This document is also common to File: 59354, Roll # 124187501

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.*