

**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:

***W. Kipp, Presiding Officer
J. Massey, Board Member
D. Steele, 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: 096023890

LOCATION ADDRESS: 5452 – 53 Avenue SE, Calgary AB

HEARING NUMBER: 59712

ASSESSMENT: \$7,340,000

This complaint was heard on the 1st day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- D. Mewha and J. Smiley

Appeared on behalf of the Respondent:

- J. Greer

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

The Complainant had submitted Rebuttal evidence within the required time period but its receipt had not been recorded on Assessment Review Board records. After discussion, the Complainant produced an e-mail confirmation record that indicated that the evidence had been transmitted to the Assessment Review Board on August 25, 2010. The confirmation sheet was marked as Exhibit C3 and the rebuttal evidence was allowed into the hearing as Exhibit C4.

Property Description:

The property that is the subject of this complaint is an industrial property located in Starfield Industrial on 53 Avenue SE. The 70,149 square foot single tenant industrial building, built in 1997, occupies a 4.06 acre lot. The City assessment record shows a building area of 70,000 square feet. The site coverage ratio is 39.57%. There is interior finish to 6% of the floor area.

Issues:

The Complainant raised the following matters in section 4 of the complaint form:
Assessment amount (No. 3 on the form) and Assessment class (No. 4 on the 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 Alberta 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 assessment 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 characteristics & 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 \$89 psf*
- *The assessment regression model method used is incorrect and does not accurately reflect the market value for assessment purposes of the subject property*
- *The aggregate assessment per square foot applied is inequitable with the assessments of*

- other similar and competing properties and should be \$74 psf*
- *The aggregate assessment per square foot applied to the subject does not reflect market value for assessment purposes when using the direct sales comparison approach and should be \$94 psf*

At this hearing, only the following issues were argued by the Complainant:

Issue 1: Market Value – Income Approach

Issue 2: Equity

Complainant's Requested Value:

\$6,260,000 (\$89.29 per square foot of building area of 70,000 square feet)

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

Issue 1: Market Value – Income Approach

The Complainant argued that the income approach is an acceptable valuation method for assessment purposes and in the subject instance that approach would yield a more realistic value estimate for the subject. In completing the income approach, the Complainant used the following input factors:

Rent Rate: \$7.05 per square foot for 70,149 square feet

Vacancy Allowance: -5.0%

Capitalization Rate: 7.50%

Using the direct capitalization formula and these inputs, the indicated property value was \$6,264,306 (\$89.30 per square foot of building area).

Several leases were analyzed and they indicated a market rent rate of \$5.18 per square foot. The subject building was subject to a lease that commenced on December 1, 2007 at a rental rate of \$7.05 per square foot per year for the 7 year lease term. The Complainant chose the actual rent rate over the market indicated rate. The vacancy and capitalization rates were selected from survey data published by major real estate companies.

The Complainant included data on five industrial property sales that indicated a median price per square foot of \$87 but there was no emphasis put on these sales. When questioned about the comparability of those sales, the Complainant stated that they were the best available and the variances between them and the subject reinforced the argument that the income approach was a better valuation method.

The City of Calgary assesses most industrial properties using the direct sales comparison approach. The industrial assessment model for industrial property is a multiple regression direct sales comparison approach model. The Respondent did not apply an income approach.

The Respondent produced an analysis of the five industrial property sales in the Complainant's evidence. By way of rebuttal of the Complainant's income approach method, the Respondent input the rent rate, vacancy rate and capitalization rate into the formula and applied it to each of the five

sales. Comparison of actual sale price, indicated value by this application of the income approach and the assessments indicated Assessment to Sale Price Ratios (ASR's) from 0.70 to 1.08 with a median of 1.03. The intent was to show that the Complainant's income approach was flawed due to incorrect input factors, however the ASR study showed that all but two ASR's were within the desired 0.95 to 1.05 ASR range.

The Respondent also provided a table of data on eight industrial property sales that occurred between March 2007 and June 2009. The buildings ranged in size from 41,586 to 77,351 square feet (subject building area of 70,000 square feet by City records). Year of construction was from 1963 to 2000 (subject was 1997). Interior finish ratios ranged from 6.0% to 15% (subject at 6.0%) and site coverage ratios were from 21.52% to 40.96% (subject at 39.57%). The time adjusted sale prices were in a range from \$83 to \$142 per square foot and the median was \$100 per square foot.

The Respondent analyzed the income value indicators of these eight sales in similar fashion to the analysis of the sales used by the Complainant. In this instance, the ASR's ranged from 0.63 to 1.08 with a median of 0.89 and just one of the ASR's within the 0.95 to 1.05 range. Another analysis using the Complainant's market lease rate of \$5.18 per square foot generated an even lower range of ASR's with median of 0.65 and none within the 0.95 to 1.05 range.

Rebuttal evidence from the Complainant comprised two Calgary CARB decisions plus a table of ASR calculations. The CARB decisions were to support the Complainant's contention that industrial properties such as the subject should be assessed using an income approach. The table set out details on 11 properties that sold during the first half of 2009. By inputting typical rents, vacancies and capitalization rates into an income approach formula for each of the 11 properties, the Complainant found that ASR's were mostly within the desired 0.95 to 1.05 range (the median was 0.96) which added credibility to the income approach parameters adopted by the Complainant.

Issue 2: Equity

Both parties provided equity comparables. The four comparables from the Complainant supported an assessment for the subject of \$88-\$89 per square foot of building while seven comparables put forward by the Respondent had a median assessment value of \$112 per square foot. The comparables were of varying sizes and ages and were in various southeast industrial locations.

Findings

In view of the above considerations, the Composite Assessment Review Board (CARB) finds as follows with respect to the Issues:

From the equity comparables, there were two from the Complainant and five from the Respondent that were found to be most similar to the subject but the assessments of these properties still yielded a wide range of indicators (from \$78 to \$116 per square foot). Overall, the equity evidence, based on information available, was found by the Board to be inconclusive.

The evidence from the parties set out a number of sales of industrial properties that the parties found to be comparable to the subject property. This confirms to the Board that there are sufficient sales of properties of similar size and other characteristics to the subject to make a direct sales comparison approach valuation reliable for assessment purposes. It is this approach that has been adopted by the Respondent for most industrial property assessments. It is the finding of the Board that if there are sufficient comparable property sales, then the approach should be favoured. The

income approach is an acceptable valuation approach but it should only be relied upon when there are insufficient comparable property sales to reliably apply the direct comparison approach. With respect to the sales, two from the Complainant (\$83 and \$127 per square foot) and three from the Respondent (\$83, \$103 and \$127 per square foot) were compelling. On the whole, these sales supported the \$105 per square foot assessment rate on the subject property.

Board's Decision:

The 2010 assessment is confirmed at \$7,340,000.

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



W. Kipp
Presiding Officer

SUMMARY OF EXHIBITS

Exhibit

- C1 Assessment Review Board Complaint Form
- C2 Evidence Submission of the Complainant
- C3 E-mail Delivery Confirmation
- C4 Rebuttal Evidence of the Complainant
- R1 Assessment Brief of the Respondent

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.*