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:

J. Noonan, ***PRESIDING OFFICER***
J. O'Hearn, ***MEMBER***
K. Coolidge, ***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:	**048072805**
LOCATION ADDRESS:	**2234 30 Ave NE**
HEARING NUMBER:	**59789**
ASSESSMENT:	**$2,830,000.**

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

Appeared on behalf of the Complainant:

- G. Kerslake, Sr. Director - Altus Group Ltd.

Appeared on behalf of the Respondent:

- M. Lau, A. Doborski, Assessors - *The City of Calgary*

Property Description:

The subject is located at 2234 30 Ave NE, Calgary. It is an owner-occupied 2 storey improved industrial property in the South Airways neighbourhood. The building footprint is 7400 sq.ft. with main floor warehouse and offices on the 2nd floor, giving a rentable building area of 14,800 sq.ft. Site coverage is calculated at 23.79% and so the assessment branch determined the site has 0.18 acre "extra land" which drives the improvement's per sq.ft. value to $191. The assessed value is $2,830,000.

Issues:

1. Should the "extra land" be excluded because of an easement for utility right of way?
2. Does a capitalized income test produce a reasonable value for assessment purposes?
3. Do sales comparables show a lower value is justified?

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

1. Extra Land

A 6-meter wide utility easement runs along some 2/3rds of the east side of the property until it veers diagonally across the lot and ends at the property's northwest corner. The easement prohibits building, planting, or changing the grade amongst other restrictions. The Complainant submits the easement sterilizes or inhibits use of the full property, and so the extra land should not be attributed; rather, the site coverage should be considered typical. An example was presented of another property whose "extra land" designation had been removed by the assessment department due to a right of way easement cutting diagonally through the site.

The Respondent observed that rights of way are common in industrial areas, that in the experience of the assessment department they do not diminish the value of most properties, that the Complainant had not shown any market evidence of value impact, and the example cited was a rare occasion where an assessor had recognized an easement did interfere with the development potential of that property.

The Composite Assessment Review Board (CARB) was not convinced that the utility easement interfered with the use of the property or that it would diminish the subject's market value. The improvement was constructed some few years after the easement was registered on title, and there was no suggestion that the building's dimensions had been constrained. The CARB finds

in any event that this is a very peripheral issue: if it could be concluded that the easement brought the property back to typical site coverage, the value difference would likely be modest. As noted by Mr. Kerslake in another hearing that day, and also known to the panel, the City used to value what was then known as excess land at 60% of the vacant land rate. For the last 2 assessment seasons, excess land value has disappeared into the coefficient mists of the assessment model but if one assumes that some semblances of former notions of value yet persist, the argument here is about $110,000 or some 4% of the assessment.

2. Income approach test

The Complainant reverse-engineered the assessed value using income approach parameters that had been accepted by other CARBs and determined the subject would have to lease at $15.12 per sq.ft. in order to justify the assessment. In contrast, using the subject's business tax assessment Net Annual Rental Values (NARV), a blended rate of $9.02 per sq.ft., and the same other inputs produced a value conclusion of $1.69 million or $114 per sq.ft.

The Respondent raised no particular objection to the Complainant's test, but a general one: this approach was site-specific and as such, contrary to the principle of mass appraisal.

The CARB heard that other panels had accepted an income approach using an 8% cap rate for pre-1995 warehouses and 7.5% cap rate for 1995 and newer. However, this CARB also understood that this method had been utilized, by default, for warehouses larger than 100,000 sq.ft. as there had been no sales in that size category, and in another decision where sales evidence had not been presented. Missing here is evidence that the same investment consideration, namely cap rate, applies across the board to warehouse properties of all sizes, or that NARV income capitalized at 7.5 or 8% produced good Assessment to Sales Ratio (ASR) results. Consequently, the CARB found little assurance that the requested value by this approach, $1.69 million, was fair or equitable.

3. Sales comparables

Both parties presented 6 sales comparables. Those of the Complainant showed time-adjusted sales prices (TASP) ranging from $95-$161 per sq.ft. and a median of $130 which when applied to the subject's 14,800 sq.ft. produced a value of $1,920,000. Two of these sales had lot sizes of .29 and .4 acres and the remaining 4 ranged from 1.3 – 1.65 acres. The CARB found fault with the method employed here: the application of a median of 6 sales whose characteristics varied substantially.

The Respondent's sales comparables ranged from $188 - $235 with a median TASP of $201 per sq.ft. compared to the subject's $191. Two of the sales had parcel sizes of .3 and .46 acres, and the rest were between 1.36 – 3.01 acres. The CARB once again was not convinced by the sales evidence of dissimilar properties that the assessment was fair. The Respondent also introduced 5 equity comparables.

As mentioned, the sales comparables presented by both parties had similar limitations: in each case 2 small parcels of questionable relevance in comparison to the subject's .7 acre size, and 4 parcels almost double and larger to much larger. The per sq. ft. values calculated for the sales ranged from $95 - $235, bringing new meaning to the caution that while frequently useful, per sq. ft. numbers can be more confusing than revealing.

Prior to the introduction of comparables, the Complainant had not met the onus of establishing that the assessment might be incorrect. Despite their problematic nature, one of the Complainant's comparables stood out due to similarity of assessed value: $2.88 million as compared to $2.83 million for the subject. That property was older, 1981 vs. 1995, and also inferior in office finish, 36% vs. 50%. However, the building footprint was 23,800 sq. ft. vs. 7400, and net rentable area almost double at 28,670 sq. ft. vs. 14,800. The lot size was 1.3 acres compared to .7 acres. A CARB member is required to bring to a hearing an open mind but there is no rule that it must also be empty: differences in age and finish pale in comparison to improvement and lot size as contributors to value. That there should be a difference of 1.76% in assessed values of these properties raises an eyebrow at minimum, or meets onus. An examination of the Respondent's equity comparables showed a number of other properties that seemed similarly strange. For instance, a 1988 property with 14,880 sq.ft of net rentable area, 80 more than the subject, office finish of 40% and covering 16% of 2.19 acres was assessed at $2,935,212 prior to rounding. To state the obvious, a difference of $100,000 for 3 times the area.

These examples and 2 more equity comparables from the Respondent are presented in comparison to the subject:

Property	Acres	Site Cover	YOC	NRA	Footprint	Assessment
Subject	.71	24 %	1995	14,800	7400	$2.83 mm
Comp 1	1.31	41.8	1981	28,670	23,800	$2.88 mm
Comp 2	2.19	16	1988	14,880		$2.935 mm
Comp 3	1.36	22	1994	12,930		$2.61 mm
Comp 4	1.03	24	1996	12,500		$2.52 mm

In diplomatic parlance, the panel had open and frank discussion about the proper duties of the parties to a hearing, including the panel itself and the proper lengths to go in making a decision either to confirm or change an assessment. Here, the Board found onus had been met but that the values presented by the Complainant through the income test and sales comparables were low at $1.69 million and $1.92 million. And as discussed, the Respondent's assessed value appeared high in comparison to a number of equity comparables.

The CARB found it owed a duty to the taxpayer to find an assessment that was more equitable than those advanced by the parties. It was determined that Comparable #4 from the table above was superior in lot size by .32 acre or some $320,000 employing the City's vacant land rate, known as "notorious fact" to all involved here, and inferior by 2300 sq. ft. of development which would be worth, at estimated maximum, some $100 per sq. ft. or $230,000. Aggregating these values, the CARB found the subject should command an assessment at least $90,000 less than Comparable #4.

Board Decisions on the Issues:

The Board reduces the assessment to $2,430,000.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF OCTOBER 2010.

J. Noonan
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.