

**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, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

414635 Alberta Ltd., COMPLAINANT (as represented by Altus Group Limited)

and

***The City of Calgary,
RESPONDENT***

before:

***J. Dawson, PRESIDING OFFICER
S. Rourke, MEMBER
A. Zindler, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	133001909
LOCATION ADDRESS:	2500 – 107 AVE SE
HEARING NUMBER:	63437
ASSESSMENT:	\$5,560,000

This complaint was heard on 29th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *D. Mewha* *Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

- *C. Lee* *Assessor, The City of Calgary*
- *I. McDermott* *Assessor, The City of Calgary*

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

- 1) An objection was raised during the hearing for Roll Number 117005207, Decision Number CARB 1108/2011-P. Mr. J. Young raised the objection on behalf of the Respondent regarding the inclusion of certain pages of the Rebuttal Document C5 as it included new evidence which is contrary to the purpose of rebuttal:
 - a. Page 6; upon the objection being raised the Complainant agreed to the objection and the page was removed from the record.
 - b. Pages 23–28 and supporting pages; an objection was raised by the Respondent that the right columns labelled "Market NOI" was new information. Complainant responded by indicating that information is not being relied on for the requested value and clarifies only information provided by the Respondent. The board recessed to make a decision and decided that the information may be used by the Complainant. As this document is tied to 9 additional hearings, this decision follows.
- 2) No additional objections on procedure or jurisdiction were raised.

Property Description:

The subject property is an Industrial-General (I-G) land use property with Industrial Warehouse Single Tenant (IW S) building type located in the Shepard Industrial area. The subject site has an area of 4.57 acres providing site coverage of 12.05% with two buildings on site; 1) first building occupies a footprint of 20,974 square feet and with an assessable building area of 25,894 square feet built in 1999 with an office finish of 38%, and 2) second building occupies a footprint and an assessable area of 3,000 square feet built in 2003 with an office finish of 6%. Based on a typical 30% site coverage there is 2.73 acres of additional land.

Issues:

The Complainant identified two issues on the complaint form:

1. Assessment amount is incorrect
2. Assessment class is incorrect

The disclosure documents and board submissions resulted in the identification of these issues:

3. Valuation Methodology

4. Subdivision ability and location
5. Status of second building as an Industrial Warehouse Single Tenant (IW S) versus an Industrial Outbuilding Single Tenant (IOBS)
6. Multi-building assessment methodology
7. Double assessment of land occupied by second building
8. Equity

Complainant's Requested Value: \$4,750,000 (complaint form)
\$4,790,000 (disclosure and hearing)

Summary of Complainant Evidence:

Complainant requested that evidence, questions and answers provided under the hearings for Roll Number 117005207, Decision Number CARB 1108/2011-P and Roll Number 137041406, Decision Number CARB 1107 2011-P is entered into evidence. Complainant reviewed the subject assessment detail summary, map, photographs and subdivision potential found in Document C17 (pages 1–18). Complainant provided recent sales information suggesting subject is overassessed (page 19). Complainant reviewed the equity comparables in argument of inequity (page 21). Complainant reviewed the Altus Industrial Capitalization Rate Analysis (cap study) for 2011 Document C1 to support their Income Approach including; a) review of the sales comparison approach (page 4), b) reviewed the lack of recent sales transactions which were argued to provide Assessment to Sales Ratios (ASR) out of an acceptable range (pages 4–8), c) discussion on the correct methodology of developing a typical market capitalization rate (page 9), d) discussion on the Altus cap rate study and its results (pages 19–20), and e) discussed the source documents throughout presentation. Complainant reviewed the subject lease with lease comparables and present calculations in Document C17 (pages 22–23). Complainant reviewed additional land value and calculation for unsubdividable land (page 22). The Complainant summarized four value conclusions to arrive at the final requested value of \$166 per square foot which equated to a truncated value of \$4,790,000.

Summary of Respondent Evidence:

Respondent requested that evidence, questions and answers provided under the hearings for Roll Number 117005207, Decision Number CARB 1108/2011-P and Roll Number 137041406, Decision Number CARB 1107 2011-P is entered into evidence. Respondent provided Document R7; reviewed legislative authority (page 3), fairness and equity in mass appraisal (page 5), Bill 23 – Coefficients (page 7), property valuation methodology (page 8), the sales comparison approach (page 9), burden of proof or onus of the parties (page 10). Respondent further reviewed subject maps (pages 13–14), photographs (page 15) and the subject's 2011 Assessment Explanation Supplement (AES) (page 19). Respondent continued with equity comparables (page 20), sales comparables (page 21), and responses to Complainant's equity comparables for multi-building sites (page 23), multi-building write up (page 24), equity in South Foothills area with resultant reduction (pages 32–33) and response to Complainant's cap study (pages 43–112). Respondent provided a conclusion to support their requested assessment.

Summary of Complainant Rebuttal:

Complainant requested that evidence, questions and answers provided under the hearings for Roll Number 117005207, Decision Number CARB 1108/2011-P and Roll Number 137041406, Decision Number CARB 1107 2011-P is entered into evidence. Complainant provided Rebuttal Document C18 and spoke to and provided evidence regarding Composite Assessment Review Board (CARB) decisions from 2010 in response to the Respondent comparables. In particular the Complainant found that sales comparable Roll Number 137037800 located at 4115 – 116 Ave SE was in question as per Decision Number CARB 1400/2010-P in that the sale was negotiated in 2007 but did not close until 2009. In addition the sales comparable Roll Number 200921278 located at 4398 – 112 Ave SE was in question as per Decision Number CARB 1352/2010-P in that the sale consisted of a property developed for a specific tenant with higher-than-normal rent. Complainant also provided clarification and additional information regarding the following properties; a) 4060 – 78 Ave SE (pages 7–10), b) 4801 – 32 St SE (pages 11–15), c) 4805 – 32 St SE (pages 23–26), d) 3352 – 47 Ave SE (page 27) and e) 8230B – 30 St SE (pages 16–21).

Further, the Complainant provided Rebuttal Document C5 to this hearing and 9 additional hearings in support of their cap study assertions.

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

The Complainant did not provide any disclosure or argument regarding the second issue being "Assessment class is incorrect", therefore the only remaining issue identified on the complaint form related to "Assessment amount is incorrect" and was further identified through the six secondary issues being:

3. Valuation Methodology; the board carefully considered all the materials submitted by each party and placed the most weight on one comparable; Respondent's comparable (R7 page 21) located at 3518 – 62 Ave SE. The board determined there is sufficient qualitative and quantitative evidence to provide for a Direct Sales Comparison Approach for the entire site and though the Complainant provided an Income Approach to valuation this was not relied upon as the board has determined that when sufficient evidence exists for the Direct Sales Comparison Approach then that methodology is preferred.
4. Subdivision ability and location; without evidence such as a real property report with precise measurements it is difficult for the board to place much, if any, weight on the argument presented by the Complainant regarding the potential subdivision of the land. The board supports the Respondent's determination that the property could be subdivided, perhaps in three parts to provide the typical 30% site coverage for each building and still permitting 2.73 acres of additional land for subdivision.
5. Status of second building as an Industrial Warehouse Single Tenant (IW S) versus an Industrial Outbuilding Single Tenant (IOBS); the board is satisfied that the second structure on this site is classed properly as IW S and without evidence to conclude otherwise that assessing it as an IOBS would be inequitable. The board noted that neither party gained access to the second structure nor knew much about the details including construction or use. It is recommended that parties providing evidence to the

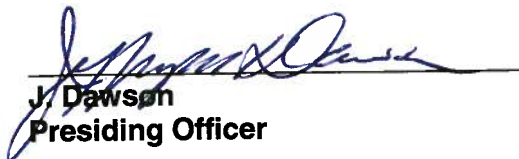
board should have firsthand knowledge of the assessment and should have personally inspected the site and buildings.

6. Multi-building assessment methodology; the Respondent requested direction or clear guidelines regarding multi-building assessment methodology however the board finds that each situation has unique characteristics and each case must be determined based on its own merits; the board sees the drawbacks to both the Respondent's approach and the Complainant's approach and determined a one solution fits all scenario is not possible. The board found that when a site is clearly unsubdividable from a logical or technical stand point and where the buildings are of very similar characteristics such as age, utilization and construction that a combined square footage approach would be prudent, however in situations such as the subject site where the buildings are not comparable in any way, then the Respondent's approach of the Direct Sales Comparison Approach on individual buildings is better in most cases but not in this case. The likelihood someone would value the secondary building on this site to a small, similar-sized, single structure site is remote, this second structure provides no visibility from the road, has limited use by itself because of where it is situated on the site and clearly is not of the same quality and utility of the Respondent's comparables. Again a reasonable approach must be used to evaluate these scenarios. In the absence of quality comparable evidence for the second structure the board opted to value this second structure at the same per square foot rate as the main structure.
7. Double assessment of land occupied by second building; the board clearly understands the approach taken by the Respondent and found there is no duplication in the assessable land.
8. Equity; the board carefully considered all the equity comparables and assigned the most weight on the equity comparables of similar characteristics including age, rentable building area, site coverage, parcel size, finish and building type. The board found that with the reduced assessment that the subject was fair and equitable to its equity comparables.

Board's Decision:

After considering all the evidence and argument before the board, the complaint is allowed and the assessment is reduced to \$5,300,000.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF July 2011.


J. Dawson
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure – Industrial Capitalization Rate Analysis
2. C17	Complainant Disclosure – Evidence Submission
3. R7	Respondent Disclosure – Assessment Brief
4. C5	Rebuttal Document – Industrial Capitalization Rate Analysis
5. C18	Rebuttal Document

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.*