

**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:

977299 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:	137041000
LOCATION ADDRESS:	12012 – 44 ST SE
HEARING NUMBER:	63948
ASSESSMENT:	\$8,770,000

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 East Shepard Industrial area. The subject site has an area of 3.90 acres providing site coverage of 33.74% with one building on site occupying a footprint of 53,376 square feet and with an assessable building area of 64,350 square feet built in 2003 with an office finish of 22%.

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. Equity

Complainant's Requested Value: \$6,690,000 (complaint form)
\$6,700,000 (disclosure and hearing)

Summary of Complainant Evidence:

Complainant requested that evidence, questions and answers provided under the hearing for Roll Number 117005207, Decision Number CARB 1108/2011-P is entered into evidence. Complainant reviewed the subject assessment detail summary, map and photographs found in Document C21 (pages 1–16). Complainant provided recent sales information suggesting subject is overassessed (page 17). Complainant reviewed the equity comparables in argument of inequity found in Document C21 (page 17) with supporting pages further in. 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 roll rent and most recent lease and present calculations as found in Document C21 (page 18) with supporting pages further in. The Complainant summarized their value conclusions to arrive at the requested value of \$104 per square foot which equated to a truncated value of \$6,700,000.

Summary of Respondent Evidence:

Respondent requested that evidence, questions and answers provided under the hearing for Roll Number 117005207, Decision Number CARB 1108/2011-P is entered into evidence. Respondent provided one Document R9; reviewed legislative authority (page 3), fairness and equity in mass appraisal (page 5), property valuation methodology (page 7), the sales comparison approach (page 8), burden of proof or onus of the parties (page 9), and summary of testimonial evidence (page 11). Respondent further reviewed subject maps (pages 12–13), photos (pages 14–18) and the subject's 2011 Assessment Explanation Supplement (AES) (page 19). Respondent continued with equity comparables (page 20), sales comparables (page 21), response to Complainant's sales comparables (page 23), invalid sale information (page 24), responses to Complainant's equity (page 27), and response to the cap study (pages 28–97) and then provided a conclusion to support their requested assessment.

Summary of Complainant Rebuttal:

Respondent requested that evidence, questions and answers provided under the hearing for Roll Number 117005207, Decision Number CARB 1108/2011-P is entered into evidence. Complainant provided Rebuttal Document C22 and spoke to and provided evidence regarding Composite Assessment Review Board (CARB) decision 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. Complainant also provided clarification and additional information regarding the following property; 4975 – 43 St SE (pages 3–7).

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 two secondary issues being:

- 3. Valuation Methodology; the board carefully considered all the materials submitted by each party and placed the most weight on three comparable; Complainant's comparables located at 2729 – 48 Ave SE, and 3716 – 64 Ave SE, and Respondent's comparable located at 4975 – 43 St SE. The board found there is sufficient qualitative and quantitative evidence to provide for a Direct Sales Comparison Approach and therefore made an adjustment. The Complainant provided an Income Approach to valuation however 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. 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 has determined with the adjustment made the subject is 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 at \$7,910,000.

DATED AT THE CITY OF CALGARY THIS 19 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. C21	Complainant Disclosure – Evidence Submission
3. R9	Respondent Disclosure – Assessment Brief
4. C5	Rebuttal Document – Industrial Capitalization Rate Analysis
5. C22	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.*