

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 ("MGA").

between:

***Southern Messenger Alta. Ltd.; 502198 Alberta Ltd.; and Geoff Vachon & Janice Vachon
(as represented by Altus Group Ltd.), COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
G. Milne, MEMBER
R. Roy, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

Roll Number	Location Address	Assessed Person	Hearing Number	Assessment
091500009	A 1130 44 AV SE	Southern Messenger Alta. Ltd.	66342	\$612,000
091500108	B 1130 44 AV SE	502198 Alberta Ltd.	66341	\$525,500
091500207	C 1130 44 AV SE	Geoff Vachon & Janice Vachon	66130	\$878,500
091500306	E 1130 44 AV SE	Geoff Vachon & Janice Vachon	66128	\$589,500
091500405	F 1130 44 AV SE	Geoff Vachon & Janice Vachon	66129	\$598,500

These complaints were heard on the 9th day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- Mr. M. Cameron Agent, Altus Group Ltd.
- Ms. D. Chabot Agent, Altus Group Ltd.

Appeared on behalf of the Respondent:

- Mr. J. Greer Assessor, City of Calgary

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

[1] The parties indicated that the evidence and argument pertaining to these five industrial condominiums are similar, and therefore the complaints should be heard together. The Board agreed with the parties' request. The Board has designated file #66342 as the master file, which contains the parties' evidence and argument for these five complaints.

Property Description:

[2] The subject properties are five industrial condominiums located in the same complex in Highfield. The complex was constructed in 1977. The ground floor areas of the units range between 2,302 – 4,535 sq. ft. and the degree of interior finish varies between the condominiums. The assessments range between \$174 - \$228 psf and were based on the Direct Sales Comparison Approach.

Issues:

[3] The Complainant identified the issues as follows:

- (a) Recent sales of similar industrial condominiums in this area reflect a lower assessed rate.
- (b) Unit A has been incorrectly assessed as an upper office space as opposed to mezzanine space.

Complainant's Requested Values:

[4] The Complainant requested the 2012 assessments for the subject properties be revised as follows:

Roll Number	Location Address	Hearing Number	Requested Assessment
091500009	A 1130 44 AV SE	66342	\$533,630
091500108	B 1130 44 AV SE	66341	\$391,340
091500207	C 1130 44 AV SE	66130	\$770,950
091500306	E 1130 44 AV SE	66128	\$551,820
091500405	F 1130 44 AV SE	66129	\$586,670

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

- (a) Recent sales of similar industrial condominiums in this area would reflect a lower assessed rate.

[5] The Complainant submitted six sales comparables of industrial condominium units located within the Central region (Exhibit C1 page 41). The condominium units were built in 1968 – 1994 and range in size from 2,706 – 6,302 sq. ft.; three of the units have mezzanine space. The sales occurred in February 2009 – March 2011 for \$156 - \$203 psf, and a median of \$172 psf. The Complainant submitted that based on these sales the subject properties should be assessed at \$170 psf.

[6] The Respondent submitted six sales comparables from the Highfield area in support of the current assessments (Exhibit R1 page 13). The condominium units were built in 1968 – 1998, and have a total ground floor area of 1,643 – 4,148 sq. ft. The units sold in July 2009 - April 2011 for \$174 - \$201 psf, a median of \$196 psf. The Respondent submitted that adjustments were made to that base rate for each of the subject properties depending upon size and finish. The Respondent identified a size error in the sales comparable presented by the Complainant located at 1258 73 AV which resulted in an increase in its overall sale price from \$136 to \$215 psf. The Respondent also questioned the reliability of the Complainant's sales comparable located at 427 51 AV SE which is a portfolio sale. The Complainant withdrew this comparable from his analysis at the hearing.

[7] The Respondent submitted a secondary analysis in which he combined all of the sales comparables presented by both parties and derived a median of \$192 psf, to further support the base rate of \$195 psf.

[8] The Board finds the market evidence brought forward by the parties confirm the base rate of \$195 psf. The Board was not persuaded by the Complainant's argument that a flat rate of \$170 psf (with no adjustments) should be applied to value the subject properties. The Complainant argued that the interior finish varies greatly between the units (i.e. warehouse space, finished areas and mezzanine office areas), which he indicated affects value, yet he asked the Board to accept a flat rate to value these properties, with no adjustments. This is in stark contrast to the Complainant's second request in which he argued that 806 sq. ft. in Unit A should be assessed as mezzanine office space as opposed to upper office and that an adjustment to the overall assessed rate for that Unit is warranted.

- (b) Unit A has been incorrectly assessed as an upper office space as opposed to mezzanine space.

[9] The Complainant submitted that the 806 sq. ft. reported as upper office for Unit A is in error and should be adjusted to mezzanine office, similarly as Units E and F. He submitted that Unit A does not have a separate office component from the rest of the Unit. It would be difficult, given the open area, for two tenants to conduct their respective businesses within this one Unit. The Complainant argued there is no floor separation and a secondary access is required in order for this space to be considered upper office. Moreover he noted there is only one access for Unit A.

[10] The Respondent argued that no separate access is required and that this area could be

subleased as upper office space. Currently there is only one company that occupies both levels within Unit A so privacy between the two levels is not an issue.

[11] The Board finds there was no evidence provided which would explain the difference between "upper office" and "mezzanine office". The terms are confusing as each one attempts to describe an office area located on the mezzanine level. The Board finds the terms are so similar that they are interchangeable. Yet, based on the assessments before the Board, it is clear that there is a difference in value depending upon which term is used.

[12] The Board was requested by the parties to provide direction in regards to this matter. It is not the Board's role to define terms that the Assessment Department utilizes in the assessments. That responsibility clearly rests with the Assessment Branch. It is arguable that an area designated as upper office space, that is leasable space to a third party, should be completely enclosed and fully functioning with a separate access, thermostat/heating, electricity etc. The Board was not convinced that separate access (or secondary access) into the Unit itself is warranted to constitute upper office space. However, in this case, the upper level is open to the ground floor and is separated by a railing, which arguably constitutes mezzanine space. At the end of the day, the Board does not understand the distinction between upper office and mezzanine office as applied by the Respondent in these assessments.

[13] Moreover, there was no evidence before the Board to distinguish between the upper office in Unit A and the mezzanine office in Unit E, which have similar areas. Neither party had inspected the subject properties in order to provide the Board with some explanation of what (interior) attributes are similar or dissimilar between these two units. The Board has set out the current assessments for the two units for ease of reference:

Subject	2012 Assessed Value	YOC	Warehouse (SF)	Finished Area (SF)	Upper Office (SF)	Mezz Office (SF)	Total Ground Area	Total Assessable Area	Rate PSF
A 1130 44 AV SE	\$612,081	1977	0	2,333	806	0	2,333	3,139	\$195

E 1130 44 AV SE	\$589,644	1977	1,112	1,167	0	967	3,246	3,246	\$182
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[14] Given the absence of a clear definition between upper office and mezzanine office by the Respondent, the Board finds this issue must be resolved in favour of the Complainant. The Board finds that Unit E provides the best indication of value for Unit A since both are located within the same complex, with similar areas, and no evidence was presented to the contrary. The Board has calculated the assessed value for Unit A as follows:

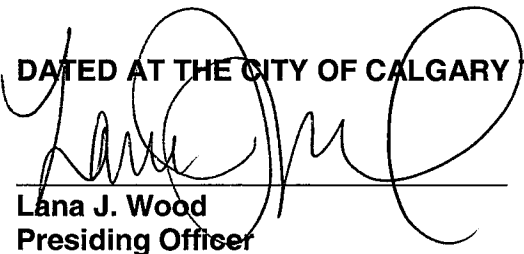
- 3,139 sq. ft. x \$182 psf = \$571,298 or truncated to \$571,000

Board's Decision:

[15] The decision of the Board is as follows:

Roll Number	Location Address	Hearing Number	Board Decision	Assessment
091500009	A 1130 44 AV SE	66342	Revised	\$571,000
091500108	B 1130 44 AV SE	66341	Confirmed	\$525,500
091500207	C 1130 44 AV SE	66130	Confirmed	\$878,500
091500306	E 1130 44 AV SE	66128	Confirmed	\$589,500
091500405	F 1130 44 AV SE	66129	Confirmed	\$598,500

DATED AT THE CITY OF CALGARY THIS 10 DAY OF OCTOBER 2012.



Lana J. Wood
Presiding Officer

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

EXHIBIT NO.	ITEM
1. C1	Complainant's Evidence
2. R1 – R5 (inclusive)	Respondent's Evidence

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub -Type	Issue	Sub - Issue
CARB	Warehouse	Warehouse Multi Tenant (Unit Ownership)	Sales Approach	