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:

Acklands Grainger Inc. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
A. Wong, MEMBER
P. Pask, 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: **090000803**

LOCATION ADDRESS: **4340 MANHATTAN RD SE**

HEARING NUMBER: **61181**

ASSESSMENT: **$4,500,000**

This complaint was heard on the 10th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *R. Worthington*

Appeared on behalf of the Respondent:

- *P. Sembrat*

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

The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description and Background:

The subject property is a single-tenanted warehouse property located in the "Manchester Industrial" area of SE Calgary. The property contains one building, built in 1964, with a footprint 51,042 SF and a net rentable area (NRA) of 55,156 SF. The building is situated on an assessable land area of approximately 2.22 acres.

According to the Respondent's 2011 Assessment Explanation Supplement, the subject has a building to site coverage ratio of approximately 52.85% and has a land use designation of "Industrial – General" (I-G). The building indicates a 22% "Finish" ratio and is assessed using the Direct Sales Approach to value at a rate of $81.00 per SF.

Issues:

The CARB considered the complaint form together with the representations and materials presented by the parties. There were a number of matters or issues raised on the complaint form; however, as of the date of this hearing, the Complainant addressed the following issues:

1) The characteristics and physical conditions of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, management, non recoverable and capitalization rates (cap rates).
2) The income approach indicates an assessment market value for the subject of $71 per SF.
3) The aggregate assessment per SF applied to the subject property is inequitable with the assessments of other similar and competing properties and should be $73 per SF.

Complainant's Requested Value:

$3,970,000 on the complaint form revised to $3,890,000 at this hearing.

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

ISSUE 1: The characteristics and physical conditions of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, management, non recoverable and capitalization rates (cap rates).

The Complainant requested that arguments and evidence made on this issue are the same and are brought forward from hearing #61099 and duplicated in hearing #63363. Therefore, the document entitled "2011 Altus Industrial Cap Rate Evidence, Part 1 of 2" (hearing #61099, Exhibit C1) and the document entitled "2011 Altus Industrial Cap Rate Evidence, Part 2 of 2" (hearing #61099, Exhibit C2) from that hearing were entered as evidence during this hearing. The Complainant along with Exhibit C1 and Exhibit C2 from hearing #61099 provided the following evidence with respect to this issue and is duplicated below:

- Argument and evidence that the Respondent's use of the Direct Sales Comparison Approach to value was not appropriate for assessing this and many other industrial properties within the City of Calgary, because of a lack of comparable market sales. The Complainant indicated that the Respondent used 154 sales of industrial properties that occurred between July, 2007 and June, 2010 in his Direct Sales Comparison Approach. The Complainant opined that the 2007 and 2008 sales were not appropriate comparables because those sales occurred under substantially different economic conditions. Therefore, only the 56 sales that occurred between January, 2009 and June, 2010 can be considered in building a model or approach to assessing industrial property in 2011.
- Analysed the sales used by the Respondent in his Direct Sales Comparison Approach and determined that the related assessments of those properties resulted in assessment to sales ratios (ASRs) that were flawed. The Complainant found that the ASRs ranged from 0.593 to 1.408, with 77% of the ASRs falling outside the provincially mandated range of 0.95 to 1.05. More specifically, 51% of the ASRs fell below 0.95, and 26% were above 1.05.
- Argument that the Income Approach to value is more appropriate in assessing industrial properties because "the approach adjusts readily to changing market conditions".
- Excerpts from a few Municipal Government Board (MGB) and CARB decisions in support of the Income Approach as a valid valuation method for assessing property.
- A summary of third party reports from Colliers, Cushman and DTZ Barnicke that indicated that vacancy rates in SE Calgary varied from 5.69% to 6.50% in the first quarter of 2010. A summary of third party reports from Colliers and CBRE that indicated cap rates varied from 6.75% to 7.25% for class "A" industrial properties and 8.00% to 8.50% for class "B" industrial properties in the second quarter of 2010.
- A summary chart or list of 8 sales of industrial properties used by the Complainant in his cap rate study. The sales selected were chosen because the Complainant was able to verify income data in place at the time of sale. The sale dates of the properties occurred from April, 2009 to April, 2010. The "stabilized" cap rate of the 8 industrial property sales ranged from 7.39% to 9.53% with a median of 7.96%. The Complainant further stratified the properties by year of construction. In doing so, 5 of the 8 properties were constructed before 1995 and 3 of 8 properties were constructed after 1994. The 5 pre 1995 properties had stabilized cap rates that ranged from 7.96% to 9.53% with a median of 8.30%. The 3 post 1994 properties had stabilized cap rates that ranged from 7.39% to 7.78% with a median of 7.77%.
- A detailed table of the 8 industrial properties involved in the cap rate study providing

further information of their sale prices, assessments and resulting ASRs and their stabilized income, stabilized cap rates and resulting ASRs. The table compared the ASR's of the Respondent's Direct Sales Comparison Approach to the Complainant's Income Approach to value. Selected information is included in the table below:

Address	Sale Date	Sale Price	2011 Assessment	2011 ASR	Stabilized Cap Rate	Stabilized Value	Stabilized ASR
3700 19 ST NE	19-Jan-10	$3,150,000	$2,739,459	0.87	8.68%	$3,313,536	1.05
2115 27 AV NE	04-Nov-09	$4,150,000	$4,668,340	1.12	9.53%	$4,794,622	1.16
4301 9 ST SE	20-Apr-09	$1,850,000	$2,040,000	1.10	7.96%	$1,784,135	0.96
700 33 ST NE	30-Oct-09	$6,000,000	$5,000,000	0.83	8.30%	$6,036,731	1.01
303 58 AV SE	20-Apr-10	$8,750,000	$9,766,058	1.12	7.96%	$8,441,815	0.96
4100 WESTWINDS DR NE	18-Aug-09	$25,825,000	$25,300,000	0.98	7.39%	$24,628,876	0.95
10905 48 ST SE	27-Apr-10	$18,300,000	$16,980,000	0.93	7.77%	$18,343,242	1.00
7007 54 ST SE	22-Jul-09	$20,100,000	$21,018,316	1.05	7.78%	$20,183,924	1.00
Median				**1.01**			**1.00**

The table above used the rent rolls of each property at the time of purchase. Leased spaces with expired lease rates were adjusted with the most recent lease rates applied to those spaces to generate an annual "stabilized" potential gross income (PGI) and then applied a 5% vacancy and non-recoverable rate to derive an annual "stabilized" net operating income (NOI). The stabilized NOI was then divided by the sales price to derive the stabilized cap rate. As was mentioned in the previous bullet, the properties above were then stratified by year of construction to arrive at pre-1995 median stabilized cap rate (the first 5 properties) of 8.25% and a post-1994 (the bottom 3 properties) median stabilized cap rate of 7.75%. The conclusion drawn by the Complainant and supported by the table above was that the Income Approach to value provided for better overall ASR results with far less dispersion from the ideal 1.00 ASR.

The Respondent requested that arguments and evidence made on this issue are the same and are brought forward from hearing #61099 and duplicated in hearing #63363. Therefore, the Respondent provided a document entitled "Assessment Brief" that was entered as "Exhibit R1" and, a summary table of 33, 2011 CARB decisions (hearing #61099, Exhibit R2) from that hearing was entered as evidence during this hearing. The Respondent along with Exhibit R1 and Exhibit R2 from hearing #61099 provided the following evidence with respect to this issue and is duplicated below:

- A summary of recent key CARB decisions that according to the Respondent either support the Respondent's use of the Direct Sales Comparison Approach or do not support the Complainant's use of the Income Approach. The summary includes the following observations from a few of those CARB decisions:
    - CARB 0859/2011-P "...the study was quite limited...".
    - CARB 1116/2011-P "...there is sufficient qualitative and quantitative evidence to provide for a Direct Sales Comparison Approach..."
    - CARB 1014/2011-P "...the Complainant's "cut off" date of 1994 as being the demarcation line between a 7.75% and 8.25% cap rate. The date is simply too arbitrary..."
    - CARB 1302/2011-P "...The Complainant used actual lease rates to calculate its capitalization rate, and then applied that capitalization rate to typical lease rates used by the City in its assessment calculation. This mixing of two methods is not appropriate."

The Respondent concluded from these and the many other CARB cases previously heard, that other panels have ruled against the Complainant many times on the same evidence that was provided in this hearing. Therefore, the outcome on this issue, in this hearing, should be the same.

In rebuttal, **the Complainant** again requested that rebuttal arguments and evidence made on this issue are the same and are brought forward from hearing #61099 and duplicated in hearing #63363. Therefore, the document entitled "2011 Rebuttal Evidence for Multiple Roll #'s" (hearing #61099, Exhibit C3), from that hearing was entered as evidence during this hearing. The Complainant along with Exhibit C3 from hearing #61099 provided the following evidence with respect to this issue and is duplicated below:

- A number of CARB and MGB decisions in support of the use of the Income Approach to value and the methodology in deriving a cap rate.

The CARB finds the following with respect to this issue:

- That the Direct Sales Comparison Approach and the Income Approach valuation methodologies are established and appropriate methods used by assessors in mass appraisal techniques. Both parties were able to establish that both methodologies are each capable of estimating market values for the various industrial properties within the City of Calgary. Therefore, the CARB makes no specific determination on this issue other than whatever valuation method is used, that it reflects an approximation of market value for the subject and other comparables used in the analysis. In other words, the methodology must be subjected to statistical testing to reflect with a degree of accuracy, what has been actually transacted in the market in the assessment period, and be equitably applied.

ISSUE 2: The income approach indicates an assessment market value for the subject of $71 per SF.

The Complainant provided a document entitled "Evidence Submission of Complaint" that was entered as "Exhibit C1". The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- A table of 2 comparable properties to the subject. The comparables had rentable areas ranging from 54,685 SF to 66,690 SF. The purpose of the comparables was to establish a median market lease rate that could be applied to the subject in the Complainant's Income Approach to value. The median market lease rate of the comparables was $6.13 per SF. Using a lease rate of $6.13 per SF to the subject's NRA of 55,156 SF, a vacancy rate of 5% and a cap rate of 8.25%, the Complainant was able to calculate an indicated value for the subject of $3,893,345 or $71 per SF. The Complainant used this calculation in his requested assessment for the subject.
- A table of 8 business assessment comparable properties to the subject, all in SE Calgary. The comparables had rentable areas ranging from 49,831 SF to 98,372 SF. The purpose of these comparables was to support the market lease calculated in the previous Income Approach valuation. The median business assessment lease rate of the comparables was $5.75 per SF. Using a business assessment lease rate of $5.75 per SF to the subject's NRA of 55,156 SF, a vacancy rate of 5% and a cap rate of 8.25%, the Complainant was able to calculate an indicated value for the subject of $3,651,996 or $66 per SF.
- A calculation expressing the current assessment of the subject in relation to an implied lease rate under the Income Approach. The Complainant determined that in order to arrive at the current assessment value of the subject, a lease rate of $7.09 per SF would be required under the Income Approach to value using the same parameters (5%

vacancy and a 8.25% cap rate). The Complainant concluded that the $7.09 per SF lease rate was not supported by market evidence and therefore must be an incorrect assessment.

The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- A table of 5 industrial sale comparable properties to the subject. All of the comparable properties were in SE Calgary. The comparables had parcel sizes ranging from 1.94 acres to 3.59 acres, with site coverages ranging from 30.93% to 48.55%. All of the comparables were single-tenanted building like the subject. The comparables had an average year of construction ranging from 1963 to 1983, with rentable areas ranging from 40,960 SF to 56,544 SF and finish percentages ranging from 10% to 27%. The sales prices of the comparables were time-adjusted to the assessment valuation date. The time-adjusted sales price per SF ranged from $86 to $98 per SF with a median of $96. The Respondent concluded that based on the time-adjusted sales-price per SF, the subject is equitably assessed.
- A table of the same 5 industrial sale comparables used by the Respondent as a test valuation using the Complainant's Income Approach. In this test valuation, the Respondent used the median business assessment lease rate of $5.75 as was established previously by the Complainant. Using the same parameters as was previously established by the Complainant (5% vacancy and an 8.25% cap rate) in his Income Approach, the Respondent calculated revised assessment values for the industrial sales comparables using the Income Approach. The Respondent concluded that using the Income Approach would result in ASR's of 0.68 and 0.77 with a median of 0.69. The Respondent concluded that based on the ASR's, the Income Approach, using the parameters calculated by the Complainant, proved to be a poor estimator of market value for these industrial property sale comparables.

In rebuttal, **the Complainant** again requested that rebuttal arguments and evidence made on this issue are the same and are brought forward from hearing #61099 and duplicated in hearing #63363. Therefore, the document entitled "2011 Rebuttal Evidence for Multiple Roll #'s" (hearing #61099, Exhibit C5), from that hearing was entered as evidence during this hearing. The Complainant along with Exhibit C5 from hearing #61099 provided the following evidence with respect to this issue and is duplicated below:

- A table of industrial sales comparables used by the Respondent in the various hearings the week of August 8' 2011. In this table the Complainant provided detailed information on each sale comparable including its time-adjusted sale price, its 2011 assessment and the resulting ASR. The Complainant noted that of the 32 sales, only 6 or 18.8% met the 0.95 to 1.05 ASR regulated standard. In comparing the ASR of the 5 industrial sale comparables, the Complainant calculated ASR's of 1.07, 1.06, 0.98, 1.00 and 1.15 respectively. The Complainant concluded that based on the ASR's, the Direct Sales Comparison Approach, as calculated by the Respondent, proved to be a poor estimator of market value for these industrial property sale comparables and therefore, are not comparable to the subject.
- Argument that the Respondent's use of the Income Approach in calculating alternative assessment values for the sales comparables was incorrect. The Complainant argues that the Respondent should have calculated implied lease rates from the Income Approach rather than calculating revised assessment values. If the Respondent had calculated implied lease rates, he would have found lease rates that are unattainable in the market.

The CARB finds the following with respect to this issue:

- The Respondent's use of the Complainant's Income Approach applied to the industrial sales comparables failed to accurately estimate the time adjusted sales price (or market value) of the each comparable. The ASR's derived from the Income Approach valuation of the sales comparables were all under 0.80, with a median of 0.69. The ASR's derived from the Direct Sales Comparison Approach valuation of the sales comparables ranged from 0.98 to 1.07, with a median of about 1.06. While both approaches performed poorly in this case, the Complainant's results were worse!
- The Complainant failed to establish through evidence or argument, that the Income Approach as calculated by the Complainant, would better approximate market value for the subject and the other sales comparables used in the analysis, than the Respondent's Direct Sales Comparison Approach.

ISSUE 3: The aggregate assessment per SF applied to the subject property is inequitable with the assessments of other similar and competing properties and should be $73 per SF.

The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- A table of 2 industrial equity comparable properties to the subject. Both of the comparable properties were in SE Calgary. The comparables had site coverages ranging from 54.44% to 59.43%. The comparables had an average year of construction ranging from 1966 to 1973. The comparables had NRA's ranging from 63,896 SF to 81,241 SF and finish percentages of 9%. The assessment per SF of the comparables ranged from $69.80 to $76.19 per SF with a median of $73. During questioning the CARB noted that the Respondent did not have any issues with regards the comparability of the properties. The Complainant concluded that based on the assessment per SF of his comparables, the subject is inequitably assessed and requested that the subject be assessed at the median assessment per SF of the comparables at $73 per SF or $4,026,388.

The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- A table of 7 industrial equity comparable properties to the subject. All of the comparable properties were in SE Calgary. One of the comparables was a multi-building site and was not considered in the analysis. The 6 remaining comparables had parcel sizes ranging from 0.98 acres to 8.70 acres, with site coverages ranging from 35% to 71%. The six comparables were single-tenanted like the subject, with an average year of construction ranging from 1956 to 1973. The comparables had NRA's ranging from 24,109 SF to 138,757 SF and finish percentages ranging from 7% to 15%. The assessment per SF of the comparables ranged from $83 to $83 per SF. The Respondent concluded that based on the assessment per SF of his comparables, the subject is equitably assessed.

The CARB finds the following with respect to this issue:

- That the Respondent's equity comparables were sufficiently comparable to the subject and were supportive of the subject's assessment per SF. Therefore, the CARB found no reason to alter the assessment on the basis of the equity argument put forward by the Complainant.

Board's Decision:

The complaint is denied and the assessment is confirmed at $4,500,000.

- The CARB finds that the Complainant failed to provide sufficient evidence that the Income Approach to value would provide for a better estimate of market value for the subject and the industrial sales comparables, than the Direct Sales Comparison Approach.
- The CARB relied on the quality of the equity comparables of the Respondent in that they tended to support both the assessment per SF of the subject and the time-adjusted sale prices of the industrial sales comparables.

DATED AT THE CITY OF CALGARY THIS 30th **DAY OF** August **2011.**

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1, from Hearing #61099	Complainant Disclosure
2. C2, from Hearing #61099	Complainant Disclosure
3. C3, from Hearing #61099	Complainant Disclosure
4. C1	Complainant Disclosure
5. C5, from Hearing #61099	Complainant Disclosure
6. R1	Respondent Disclosure
7. R2, from Hearing #61099	Respondent Disclosure

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.