

**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:

***Manchester A Management Ltd.
(as represented by Altus Group Limited), COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***J. Dawson, PRESIDING OFFICER
S. Rourke, MEMBER
A. Zindler, MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board [CARB] in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	200117133
LOCATION ADDRESS:	303 58 Avenue SE
LEGAL DESCRIPTION:	Plan 0211045; Block 1; Lots Multiple
HEARING NUMBER:	67950
ASSESSMENT:	\$ 10,360,000

- [1] This complaint was heard on the 5 day of October, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 1.
- [2] Appeared on behalf of the Complainant:
- R. Worthington Agent, Altus Group Limited
- [3] Appeared on behalf of the Respondent:
- J. Greer Assessor, City of Calgary

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

- [4] The Complainant and the Respondent requested to bring forward all evidence, comments, questions, and answers articulated during previous hearings, and heard before this Board to this hearing: CARB 1952/2012-P, CARB 1953/2012-P, CARB 1955/2012-P, CARB 1961/2012-P, CARB 1960/2012-P, CARB 1957/2012-P, CARB 1958/2012-P, CARB 1959/2012-P, CARB 1954/2012-P, and CARB 1962/2012-P.
- [5] **The Board determined, from the following listed decisions: CARB 1952/2012-P, CARB 1953/2012-P, CARB 1955/2012-P, CARB 1961/2012-P, CARB 1960/2012-P, CARB 1957/2012-P, CARB 1958/2012-P, CARB 1959/2012-P, CARB 1954/2012-P, and CARB 1962/2012-P, that all evidence, comments, questions, and answers, is to be brought forward and incorporated just as if it were presented during this hearing.**
- [6] No additional procedural or jurisdictional matters were raised.

SECTION B: Issues of Merit

Property Description:

- [7] Constructed in 1970, the subject – 303 58 Avenue SE, is a single-storey warehouse building located on 58 Avenue near 2 Street SE in an area known as Manchester Industrial with a non-residential sub-market zone [NRZ] of SM4.
- [8] The Respondent prepared the assessment showing a 121,827 square foot footprint with 133,325 square feet of assessable space. There is 15% office finish graded as a 'C' quality. The site has an area of 287,233 square feet calculating site coverage of 42.41%.

Matters and Issues:

- [9] The Complainant identified two matters on the complaint form:
- Matter #3 - an assessment amount*
 - Matter #4 - an assessment class*
- [10] Following the hearing, the Board met and discerned that these are the relevant questions which

needed to be answered within this decision:

1. *What is the correct method for calculating assessment of second floor space?*
2. *Is the subject assessment equitable with comparable properties?*

Complainant's Requested Value:

- \$8,750,000 on complaint form, in disclosure document, and confirmed at hearing as the request

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

Matter #3 - an assessment amount

Question 1 *What is the correct method for calculating assessment of second floor space?*

Complainant's position

- [11] The Complainant articulated that based on the methodology employed by the Respondent that the subject property is effectively being assessed at a rate higher than the market considers. The Assessment Request for Information [ARFI] and the RealNet report both show that the market deems the subject to be 121,375 square feet, while the Respondent calculates the square footage attributed to the mezzanine level causing an inequitable situation and a higher assessment. (C1 p. 5 and 18-20)
- [12] The Complainant argues that, because the purchaser values the property on a value for the main floor only, the mezzanine area of 11,498 square feet is essentially being assessed while there is no income or value to the owner.

Respondent's position

- [13] The Respondent addressed this concern by indicating that *the Act* requires them to assess the physical characteristics of the property.
- [14] The Respondent provided measurement data collected during a site visit in September 2010 showing 121,827 square feet of main level space and 11,498 square feet of mezzanine office space as well as 1,936 square feet of mezzanine storage space that is not being assessed.
- [15] Mezzanine is defined by the Respondent as; "*a permanent or semi-permanent intermediate storey set between two main storeys of a structure that allows for additional but restricted utility*". (R1 p. 37)
- [16] The Respondent provided equity comparison charts showing the footprint and assessed floor area. (R1 pp. 16). In the sales comparison chart, the footprint is not presented. (R1 p. 14)

Board's findings

- [17] The Board finds the mezzanine space within the subject does fit the definition provided by the Respondent for mezzanine space. The information is that mezzanine and ground level space is assessed at the same value.
- [18] The equity charts provided by the Respondent clearly show consideration for assessed areas including mezzanine space when calculating property values. The Board found in a previous referenced decision (CARB 1962/2012-P) that when mixing ground floor space with mezzanine or second floor space to calculate a common value creates somewhat of an inequity.
- [19] In this case, there is no extra land being assessed and the Complainant is essentially asking for a zero assessment to the mezzanine; therefore, no adjustment is required.
- [20] The methodology employed by the Respondent does mean that ground level areas overall are slightly under assessed while the mezzanine or second floor space becomes over assessed. The Board recommends that a discount be applied to mezzanine space in the future.
- [21] **The Board finds that mezzanine space does create value and must be assessed.**

Question 2 Is the subject assessment equitable with comparable properties?***Complainant's position***

- [22] The Complainant raised the issue of equity and explained that there are no true equitable comparables and then provided thirteen comparables in two charts that required numerous adjustments to make them comparable. A median of \$60 per square foot is presented. (C1 p. 7)
- [23] The Complainant established through questioning and past *CARB* decisions that a sale of the subject near the valuation date provided the best evidence. (C1 p. 4)
- [24] The Complainant indicated that the time adjusted sale of the subject, 15 months prior to valuation date, is \$69 per square foot using the footprint square footage. The actual sale occurred April 20, 2010 for \$8,750,000 or \$65.63 per square foot when using the assessable square footage. (C1 p. 6 and 20). A second sale was provided of a comparable property, 5 months prior to the valuation date, at \$65.46 per square foot (3 different square footage values are presented, the Board used the square footage displayed on the sales transaction). (C1 pp. 72-74)
- [25] The Complainant demonstrated that the Respondent, when creating their assessment model, relied on the sale of the subject and used the square footage reported by a third party agency, which is the same area reported on the *ARFI*. This square footage of 121,827 is different from the assessment square footage of 133,325.

Respondent's position

- [26] The Respondent provided a sales chart with seven comparables arriving at \$85.85 for a median. (R1 p. 14) The Complainant noted that five of the seven comparables were significantly

newer and three of those five are in the northeast which is suggested to be a much different market area. The two remaining sales comparables find a time adjusted median value of \$63.06 per square foot.

- [27] The Respondent provided an equity chart with seven comparables arriving at \$78.81 for a median. (R1 p. 16)
- [28] The Respondent re-presented the Complainant's equity charts arriving at a median value of \$60.00 per square foot in each instance. (R1 p. 22 and 25)
- [29] The Respondent refused to provide the Board information on how to properly calculate the assessment in order to compare the key factors with comparables. The coefficients are not required to be provided as per Matters Relating to Assessment and Taxation [MRAT], section 27.3(2).

Board's findings

- [30] The Board finds the Respondent erred when it relied on the value of 121,827 square feet when analysing the subject within their assessment model, casting doubts on the results for this assessment and perhaps all assessments relying on this calculation.
- [31] The Board finds the sales comparables presented by the Respondent, when trimmed for appropriate age and location comparables, arrived at the same two sales the Complainant arrived at. The two sales are the subject itself and one other sale. The time adjusted median of the two sales is \$63.06.
- [32] The Board finds that both the Complainant and the Respondent relied on a common property for an equity comparable – the same comparable they relied upon for a sales comparable. The assessment of this comparable is \$60 per square foot.
- [33] **The Board finds that the comparable relied on by both the Complainant and the Respondent is the best indication of value for the subject.**

Matter #4 - an assessment class

- [34] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

Board's Decision:

- [35] After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to the requested value of \$8,750,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF November 2012.


J. Dawson
Presiding Officer

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

NO.	ITEM
1.	C1 Complainant Disclosure – 103 pages
2.	R1 Respondent Disclosure – 39 pages
3.	C2 Rebuttal Disclosure – 16 pages
4.	C3 Rebuttal Disclosure – 5 pages
5.	C4 Rebuttal Disclosure – 16 pages

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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Multi-Tenant	Cost/Sales Approach	Equity
				Improvement Calculation