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:

1087571 Ontario Inc. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER
A. Blake, MEMBER
J. Rankin, 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:	**097015101**
LOCATION ADDRESS:	**6210 44 ST SE**
HEARING NUMBER:	**64039**
ASSESSMENT:	**$12,400,000**

This complaint was heard on the 30th day of Aug., 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:

- Mr J. Smiley (Altus Group Limited)

Appeared on behalf of the Respondent:

Mr. I. Baigent

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

There were no concerns with the composition of the Board.

There were no preliminary matters. The merit hearing proceeded.

It was agreed that all evidence and argument with respect to the Complainant' Disclosure (C-2) Industrial Capitalization Rate Analysis 2011 Assessment Year from Hearing # 62787 would be carried forward to this hearing.

The Complainant's Rebuttal was carried forward from Hearing 62787.

Property Description:

The subject property is a 5.98 acre parcel located in the Foothills Industrial District in SE Calgary. The site is improved with a 146,780 square foot (SF) multi tenant warehouse that was constructed in 1995 with site coverage of 54.79% and Finish of 6%. The subject is assessed at a rate of $84 per SF utilizing the Direct Sales Comparison Approach to Value.

Issues:

The Assessment Review Board Complaint Form contained the following statements:

1. "The assessment of the subject property is in excess of its market value for assessment purposes.
2. The municipality has applied the incorrect valuation methodology when calculating the assessed value of the subject property.
3. The valuation method used for the subject property is fundamentally flawed in both derivation and application.
4. The direct sales comparison approach used by the City has included sales that should not be considered in determining the market value of the subject property", amongst other things.

Complainant's Requested Value: $8,990,000 (Complaint Form)
$10,790,000 (Hearing)

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

Issue Method of Valuation

The Complainant argued that there are not enough sales of properties with comparable characteristics in order to reliably determine the value of the subject, and further that an Income approach using typical information, all of which is readily available, is a suitable method for estimation of value. The Complainant advised that the City of Calgary provided a list of sales (154) for the period July '07 to June '10 which it used in its model to determine the assessed value for the industrial inventory. Through the use of a table on page 7 (C-2), the Complainant demonstrated that over the 18 months prior to the valuation date (July 1, 2010), there was a very limited number of sales (56) within even the most basic size stratums, and further there were only 21 sales in the base year. In the alternative, the Complainant submitted the Income Approach to Value is a better method of estimating value.

The Board notes that the goal is to achieve the objectives of ss.2 and 3 of Matters Relating to Assessment and Taxation Regulation, AR 220/2004 (MRAT). The Respondent presented several decisions of the Municipal Government Board (MGB), CARB and the Courts, which do not need to be recited here, that respect the right of the Respondent to use the method it deems more appropriate. The Board notes that this does not preclude the Complainant from demonstrating that a different approach may result in a more accurate market value or a more equitable assessment.

In support of its use of the Income Approach, the Complainant provided Industrial Cap Rate Analysis 2011 Assessment Year labelled (C-2). The Board's decision on the utility of the Analysis is dealt with in CARB 2051-2011-P with respect to Hearing 62787. The Board's analysis is carried forward and applied in this decision.

In its Analysis, the Complainant uses a 5% Vacancy rate which is taken from an aggregate of market publications, submitting that it represents a city wide average and can be applied to sales and assessments city wide.

In its Analysis, the Complainant selected only the 8 sales that occurred between January 2009 and July 2010 where actual income could be verified, excluding atypical properties and leasebacks. The properties were then stratified by 2 age categories, vis a vis, pre and post 1995. After analysis, the Complainant concluded that the Cap rate for pre 1995 industrial properties was 8.25% and the Cap rate for post 1995 industrial properties was 7.75%.

The Complainant, in response to previous decisions where the issue of typical rents versus contract rents had been cited as a reason to question the reliability of the Cap Rate Analysis, included a chart titled Market NOI and submitted that when market rents were substituted for contract rents, the Cap rates only changed marginally.

The Respondent submitted that the Complainant's Cap Rate Analysis cannot be relied upon and that Decisions of other CARBs had rejected the use of the same Analysis. These decisions are partially summarized as follows:

1. CARB 0859/2011-P "The sample size of sales that supported the study was quite limited and did not generate the degree of confidence the Board would want in

order to accept the Study results as appropriate for determining market value on each of the properties under complaint."

2. CARB 1014/2011-P "The Board does not accept the Claimant's "cut-off" date of 1994 as being the demarcation line between a 7.75 and 8.25 per cent capitalization rate. The date is simply too arbitrary, and does not reflect typical market behaviour".
3. CARB 1340/2011-P "The Board's review and conclusion of the cap rate analysis and the City's response to it is that the Complainant's data (sample size of sales) supporting the analysis was too limited, and mixed typical and actual inputs. As such it did not generate the degree of confidence the Board would need in order to accept the cap rate analysis".

The Board finds the Complainant's Cap Rate Analysis is comprised of eight sales from April 2009 to April 2010. The sales were stratified into pre 1995 and post 1995. Five properties in the pre 1995 category ranged in age from 1964 to 1980, the three in the post 1995 category were constructed from 2000 to 2009. Of the eight, four properties in the Analysis have an area less than 100,000 SF. Further, a review of the rental rolls as provided by the Complainant for the properties used in the Analysis yield some discrepancies in the rental rates used. In particular some of the leases have expired, and some of the leases are dated. The Complainant's contention that there are not sufficient sales to appropriately apply the direct sales approach to assessment on these properties also holds true for the creation of a cap rate study for properties in the 100,000 SF category. The utility of the study, in the Board's view, is limited given the above consideration.

Issue Market Value

The Complainant's Disclosure is labelled C-1.

The Complainant, at page 11, utilized the 2011 Assessment and worked backwards to arrive at an "implied rent rate" of $6.89 per SF. The Complainant submitted the rent rate of $6.89 per SF was too high and that the Business Assessment lease rate would provide a more accurate indicator of value when used in the Income Approach to Value because that system contains the most data. The Business Assessment rate was identified as $6.00 per SF on page 12..

The Complainant then utilized the Income Approach to Value with the parameters of $6.00 per SF for rent rate, Vacancy rate of 5%, and a Cap rate of 7.75% (from the Cap Rate Analysis) to arrive at an indicated value of $10,795,432. ($73 per SF)

The Respondent's Disclosure is labelled R-1.

The Respondent, at page 14, provided Sales Comparables (Industrial Warehouse 100K+ sf) which contained 9 sales of single improved properties with Time Adjusted Sales Price per SF (TASP/SF) ranging from $81 to $135 noting the subject is assessed at $84 per SF. The Respondent submitted the subject is near the bottom of the range which is not indicative off any one factor.

The Board finds the market evidence from the Respondent more persuasive than the Complainant's Income Approach which relies on a somewhat arbitrary lease rate.

Board's Decision:

The 2011 assessment is confirmed at $12,400,000.

Reasons

The subject assessment falls within the range of sales comparables.

DATED AT THE CITY OF CALGARY THIS 15 **DAY OF** September **2011.**

B. Horrocks
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Industrial Capitalization Rate Analysis
4. C3	Complainant Rebuttal

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.