

**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:

1289048 Alberta Ltd. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER

R. Deschaine, MEMBER

J. Pratt, 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:	070 032 909
LOCATION ADDRESS:	221 – 18 Street SE, Calgary AB
HEARING NUMBER:	63186
ASSESSMENT:	\$3,440,000

This complaint was heard on the 21st day of September, 2011 at the office of the Assessment Review Board located at Floor No. 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *G. Kerslake (Altus Group)*

Appeared on behalf of the Respondent:

- *C. Neal (Assessment Business Unit)*

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

No procedural or jurisdictional matters were raised at the hearing.

Property Description:

The property that is the subject of this complaint is a suburban office building located in the Mayland community of northeast Calgary. The two storey building, built in 1979, contains 32,004 square feet of office space and 16,427 square feet of storage space. It occupies a 1.88 acre site within the industrial area of Mayland.

For assessment purposes, the City of Calgary places the building into the "B" suburban office classification. The 2011 assessment is \$3,440,000 (\$71.03 per square foot of total building area).

Issues:

The Assessment Review Board Complaint form, filed March 7, 2011 had check marks in boxes 3 (Assessment amount) and 4 (Assessment class) in Section 4. Under Section 5, an attachment set out seven "Additional Grounds For Appeal."

At the hearing, the Complainant stated that the issue that would be detailed was the overall assessed value of the property.

Complainant's Requested Value: \$2,800,000 (The initial requested assessment was \$2,590,000 but the correction of a calculation error increased it to \$2,800,000)

Party Positions on the Issues:

Complainant's Position:

The property is assessed using the income approach to value. The Complainant accepted the assessor's rent rate on storage space (\$3 per square foot), the 12.0% vacancy rate, the \$12.50 per square foot operating cost rate, the 2.0% non-recoverable expense rate and the 8.75%

capitalization rate. Evidence was presented to show that the office space rental rate should be \$10.00 per square foot rather than the \$12.00 rate utilized in making the assessment.

The subject property does not have a location that is comparable to most of its competitors. It is located adjacent to a railway spur line that services industrial properties in Mayland. It does not have direct access or exposure to major roadways. It is surrounded by mostly industrial properties.

A table of data on 17 northeast Calgary suburban office leases, including five in the subject building, is in evidence. Rental rates for office space range from \$9.00 to \$12.00 per square foot. One lease in the subject started December 1, 2009. The rent on 1,730 square feet is \$10.00 per square foot. Four 2010 leases (March 1 and July 1 start dates) have rents of \$9.00 (1,659 square feet), \$10.00 (3,900 square feet), \$9.00 (10,300 square feet) and \$12.00 (1,150 square feet). All of the 2010 leases provide for net rent free periods of two or three months at the start of the lease term.

For all 17 lease rates, the average is \$10.63 per square foot, the median is \$10.00 and the weighted mean is \$10.40. This is sufficient evidence to support a reduction in the office rent rate to \$10.00 per square foot for the subject assessment.

Rent rolls are provided to support the leasing rates quoted for the subject property.

The Complainant erred in recalculating the assessment by using an erroneous vacancy rate. When that error was corrected, the requested assessment was \$2,800,000.

Respondent's Position:

The \$12.00 per square foot office rent rate is supported by 24 leases in Class "B" buildings, all with start dates in 2010. Rent rates range from \$9.00 to \$15.00 per square foot. The median, mean and weighted mean of the 24 lease rates are \$11.75, 11.66 and \$12.17 per square foot, respectively. All of these same buildings are in the Complainant's lease evidence but the Respondent has added some relevant lease data that the Complainant omitted.

A portion of a 2010 rent roll for the subject property in the Respondent's evidence confirms the \$9.00 and \$10.00 lease rates that the Complainant has introduced.

With regard to the total property value, the Respondent's evidence includes an Assessment Request For Information (ARFI) response returned in April 2010. The ARFI states that there had been a 2008 appraisal of the subject property wherein the opinion of market value as at December 15, 2008 was \$8,900,000. The letter of transmittal from the appraisal, conducted by I. J. Pritchard, B.Sc., AACI, P.App. of Linnell Taylor Lipman & Associates Ltd., was included but no other part of the appraisal was in evidence.

Another table shows that several of the buildings used as rent comparables by both parties are all assessed using a \$12.00 per square foot typical office rent rate, as is the subject.

Complainant's Rebuttal:

The Complainant demonstrated that the subject property is not truly competitive with the office buildings used by the Respondent to support the rent rate. A weighted mean has been calculated for each of the buildings, including the subject. The weighted mean of five leases in the subject is \$9.76 per square foot while the others are at \$11.66, \$13.59, \$10.94, \$13.30 and \$12.00 per square foot. Other rebuttal evidence shows that some of these other buildings are considerably larger than the subject and most of them enjoy superior locations being situated within office parks and not surrounded by industrial buildings.

CARB decision 0870/2010-P was a decision regarding the 2010 complaint on the subject property. In that decision, the Board accepted the Complainant's evidence that the office rent rate should be reduced. A 2011 decision of Madam Justice D. L. Shelley from the Court of Queen's Bench of Alberta found, among other things, that an assessor is obligated to consider successful appeals of previous year's assessment.

Board's Decision:

The 2011 assessment is reduced to \$2,800,000.

Reasons for the Decision:

Firstly, the Board is cognizant of the Respondent's explanation of the 2010 CARB decision on the subject property – the Respondent had provided no evidence so the Complainant "won by default", so to speak.

The Board finds that it does not have to turn to prior decisions for guidance in evaluating the evidence in this complaint. It is clear from the office rental data from both parties that the subject property cannot compete successfully with other Class "B" properties in northeast Calgary. The evidence clearly shows that the subject property should be assessed with a rent rate of \$10.00 per square foot applied to office space. The non-competitive finding is supported by evidence in the Respondent's disclosure brief that the building suffered from a high (48.74%) vacancy in 2010.

Not having additional information regarding the reported 2008 appraisal of the subject property, the Board gave that evidence no weight.

DATED AT THE CITY OF CALGARY THIS 19 DAY OF October 2011.



W. Kipp
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	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.*

For Administrative Use:

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Stand Alone Low Rise	Income Approach	Net Market Rent