CALGARY
COMPOSITE 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:

Boardwalk REIT Properties Holdings (Alberta) Ltd. as represented by Altus Group Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

S. Barry, PRESIDING OFFICER
K. Farn, MEMBER
J. Mathias, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) 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:	**050220318**
LOCATION ADDRESS:	**2202 3817 26 Av N.E. Calgary, AB**
HEARING NUMBER:	**62421**
ASSESSMENT:	**$31,930,000**

This complaint was heard on the 4th day of October, 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:

- *J. Weber, Altus Group Limited*

Appeared on behalf of the Respondent:

- *S. Cook, City of Calgary*

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

There were no Procedural or Jurisdictional Matters raised at the hearing, however the Parties requested that the evidence, questions and responses, where applicable, be carried forward from file 62110, CARB decision 2427/2011-P with respect to rental rate and tenant inducements.

Property Description:

The property under complaint is a suburban, townhouse style, multi-residential development containing a total of 207 units of which 137 are 2-bedroom units and 70 are 3-bedroom units. The development is located in the Rundle community in the north-east quadrant of the City within Market Area 7 and is assessed using the Income Approach employing a Gross Income Multiplier (GIM) of 12. The vacancy rate applied by the Respondent is 5.5 per cent. The 2-bedroom units are assessed at $1,100 per unit and the 3-bedroom units are assessed at $1,200 per unit.

Issues:

1. Do the Respondent's assessed rents represent the correct market value for the property?

2. Should the Effective Gross Income (EGI) be reduced by an allowance for Tenant Inducements before the application of the GIM in order to achieve the correct market value for the property?

Complainant's Requested Value: The requested assessment on the Complaint Form was $29,430,000. This request was revised in the Complainant's Disclosure document to $28,541,520.

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

1. The Complainant argued that, for assessment purposes, the correct rent for the 2-bedroom units in the property is $1,000 and the correct rent for the 3-bedroom units is $1,100. In support of this argument, the Complainant provided an undated rent roll that lists 137 2-bedroom units and highlights 31 of these. The roll also contains 68 3-bedroom units of

which 15 are highlighted. The highlighted samples correspond to leases signed between January 1, 2010 and July 1, 2010 and represent between 22 and 24 per cent of the total leases. The current leases demonstrate a median rental rate of $1,000 for 2-bedroom units and $1,100 for 3-bedroom units. In support of the rental rate period chosen for these samples, the Complainant referred to the Alberta Assessors' Association Valuation Guide, Valuation Parameters (February 1999) (AAAVG) which states, as paraphrased from section 3, p.45, that current market rent is best determined from the rent roll using actual leases signed on or around the valuation date.

The Respondent argued that typical rents are appropriate for assessment purposes and are derived from the annual Assessment Request for Information (ARFI) process. However, no ARFI's were produced to support the Respondent's contention that the rents applied to the subject are typical. The Respondent did provide an undated rent roll which, he said, was obtained through the ARFI process. This rent roll showed median rents that support the assessment but which did not appear to contain any leases negotiated after April 1, 2010. The Respondent also referenced an August 2011 article from the Calgary Herald that dealt, generally, with the financial status of the Owner but which was not specific to the property under complaint. He also included an extract from the Canada Mortgage and Housing Rental Market Report released in the Spring of 2010. This is a Canada-wide overview that includes some information on Calgary but is not specific to the area of the property under complaint.

The Respondent stated that the income for a whole year should be considered as noted in their own extracts of the AAAVG but particular to Apartment/Multi-Residential (September 1998). In fact, the Respondent included in its Disclosure package R1 some 39 pages of that document. The Board noted that the process starts with the collection and analysis of actual monthly income which forms the basis for all other calculations including the development of typical rents, resulting in typical potential gross income, etc. The Board noted, however, that the process is not the issue; the issue is the result and whether the "typical" results demonstrate an equitable basis for determining the market value of the subject. The Respondent's evidence does not demonstrate that. The Complainant contended that there is no difference between the Respondent's approach and his, in that he as applied the derived current rent into an annualized amount that becomes a potential gross income to which vacancy rates and GIM are applied. When those results are compared with the Respondent's results, he stated, there is a clear inequity.

With respect to the first issue, the Board noted that this townhouse complex is sufficiently large to create its own market and, in any event, the Complainant demonstrated the requested rents represent a better indication of market value on July 1, 2010 and the Board revised the assessment accordingly.

2. It was the Respondent's position that there are no adjustments in their assessment formula for tenant inducements and that these are never considered in calculating the assessment.

In support of his request to adjust the EGI for tenant inducements, the Complainant again referenced the AAAVG, specifically p.46, which clearly directs that such inducements should be deducted from the base rent unless the inducement adds value to the real estate. In the residential tenancies before Board, that was not the case – the inducements were clearly described as a monthly reduction in rent in exchange for entering into leases of specific periods. The Complainant further supported his request by reference to two CARB

decisions from 2010: CARB 2263/2010-P (which included the subject property) and CARB 2298/2010-P. Both decisions dealt with tenant inducements and both decisions supported the reduction of the EGI by the appropriate tenant inducements.

The Board concurred with the Complainant's position from a theoretical point of view but in this instance decided not apply the requested deduction of $48,300 because of the insufficiency of the supporting documentation. The table of incentives provided by the Complainant lists specific suite numbers where inducements have been applied. They have been calculated based on the term of the lease and span a range from July 24, 2009 to August 6, 2010: some are post facto of the valuation date of July 1, 2010 and some reflect two separate inducements being applied to the same unit within a 12 month period. For example, unit 208 records two 12 month inducements of $150 on a 12 month lease starting November 1 and November 20 of 2009. Similarly, Unit 1303 has a 12 month inducement of $1,200 starting October 1, 2009 followed by another inducement of $2,400 starting on February 2, 2010. Clearly there is overlap in the incentives being reported. It is not the Board's responsibility to attempt to decipher which of these are appropriate and in which amount. The Complainant should be prepared to provide a clear and comprehensible analysis of the incentives to show the actual amounts that were applied to the units for specific terms and not duplicated. In the absence of that evidence, the request is denied.

The assessment, therefore, will only be reduced to reflect the requested rental rates of $1,000 for 2-bedroom units and $1,100 for 3-bedroom units.

Board's Decision:

The 2011 Assessment is revised to $29,120,000

DATED AT THE CITY OF CALGARY THIS 27 **DAY OF** October **2011.**

Susan Barry

S. Barry, Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's 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.