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:

BCIMC Realty Corporation (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER
I. Fraser, MEMBER
R. Deschaine, 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:	**067058511**
LOCATION ADDRESS:	**609 – 8 ST SW**
HEARING NUMBER:	**62964**
ASSESSMENT:	**$97,100,000**

This complaint was heard on 26th day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Ave. NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *Mr. J. Weber, Altus Group LTD.*
- *Mr. D. Mewha, Altus Group LTD.*

Appeared on behalf of the Respondent:

- *Mr. D. Lidgren Assessor, City of Calgary*

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

None

Property Description:

The subject is a 1969 era two-building 36-storey (each building) residential/commercial/office building on 8 ST SW in the west end of downtown Calgary called Calgary Place Apartments. Building one contains 103 bachelor; 130 one-bedroom; 68 two-bedroom; and 3 four-bedroom (penthouse) suites assessed at a "typical" $925; $975; $1,200; and $1,750 per month respectively. Building one also has 18,303 square feet (SF) of main floor retail and 2,605 SF of main floor office, each assessed at $275 and $200 per SF respectively.

Building two is identical to building one in number of storeys and suite mix and is identically assessed, however it does not have any retail/commercial or office components. Overall, the subject is assessed using a typical 5% vacancy and 13.00 Gross Income Multiplier (GIM) at $97,100,000.

Issues:

1. The Gross Income Multiplier (GIM) should be 12.50 and not 13.00.
2. The Office/Retail rent rates used in the assessment are incorrect at $200 and $275 per SF respectively.
3. The typical residential rent rates used in the assessment are incorrect.

Complainant's Requested Value: $89,270,000

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

Issue # 1: "The Gross Income Multiplier (GIM) should be 12.50 and not 13.00."

Complainant's perspective;

The Complainant provided his Brief C-1 and described the location and attributes of the subject. He argued that the typical market GIM of downtown/beltline high-rise buildings is 12.50 and not 13.00, based on an Altus GIM Study as prepared by the Altus Appraisal Division. He also argued that the assessed rents for the Commercial/retail portions of the subject are over-stated by 50%. On page 10 of C-1 he provided a re-calculation of the assessment using inferred Altus parameters, comparing it to the City's values. Based upon this new information, he argued the assessment should be $89,270,000 instead of the City's $97,100,000.

The Complainant argued on page 12 of C-1 that accepted appraisal theory suggests the following:

> "Gross income multipliers may be used to compare the income-producing characteristics of properties in the direct comparison approach and to convert gross income streams into property value in direct capitalization. The ratio of the sale price of a property to its annual gross income at the time of sale or projected over the first year or several years of ownership is the gross income multiplier."

On page 13 of C-1 the Complainant added:

> "....the appropriate appraisal methodology is to calculate the capitalization rates from comparable sales utilizing actual income and deduct a vacancy and expense allowance in a consistent manner."

On page 15, the Complainant provided five high-rise market sale comparables in a matrix titled "Altus Downtown/Beltline High Rise GIM Study" as follows:

	835 - 6 AV SW	1702 – 23 AV SW	1140 – 14 AV SW	725 – 15 AV SW	813 – 13 AV SW
Sale price	$18,500,000	$3,915,000	$4,896,000	$5,024,000	$7,065,000
Sale date	2-Apr-09	27-Apr-10	27-Apr-10	16-Dec-10	16-Dec-10
No. Of suites	119	27	32	32	45
No. Bachelor					1
1- Br	81	16	22	17	21
2- Br	38	11	10	15	23
Age	1965	1969	1965	1967	1966

Bachelor rent					$950
1 Br rent	$975	$1,015	$1,015	$1,015	$1,015
2 Br rent	$1,150	$1,200	$1,200	$1,200	$1,200
Commercial value	$1,044,325				
Residential Income	$1,472,100	$353,280	$411,960	$423,060	$598,380

Vacancy %	5%	5%	5%	5%	5%
Vacancy $	$73,605	$17,664	$20,598	$21,153	$29,919
EGI	$1,398,495	$335,616	$391,362	$401,907	$568,461
GIM	12.48	11.67	12.51	12.50	12.43

Average	12.32
Median	12.48

The Complainant clarified that both he and the City agree with the data presented by the first sale at 835 – 6 AV SW – a downtown property. The remaining 4 sales are beltline properties. He suggested that all 5 buildings were of "Average" or "Good" quality. He noted that the rents shown are "Assessed Rents" and not "actual rents" from the rent rolls for the 5 properties. He suggested that "the City treats the beltline and downtown properties the same", although he acknowledged that in his matrix, different "typical" rents were noted for the one downtown, and for the four beltline examples.

On page 16 of C-1 the Complainant provided a second matrix entitled "Altus Downtown/Beltline High-Rise ASR Analysis" using the same 5 sales as on his page 15. He argued that by using a 12.50 GIM for each of the 5 sales, the Assessment To Sale Ratio (ASR) approaches the desired 100%. He provided the following:

	835 - 6 AV SW	1702 – 23 AV SW	1140 – 14 AV SW	725 – 15 AV SW	813 – 13 AV SW
Sale price	$18,500,000	$3,915,000	$4,896,000	$5,024,000	$7,065,000
Sale date	2-Apr-09	27-Apr-10	27-Apr-10	16-Dec-10	16-Dec-10
No. Of suites	119	27	32	32	45
No. Bachelor					1
1- Br	81	16	22	17	21
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Age	1965	1969	1965	1967	1966

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Commercial value	$1,044,325				
Residential Income	$1,472,100	$353,280	$411,960	$423,060	$598,380
Vacancy %	5%	5%	5%	5%	5%
Vacancy $	$73,605	$17,664	$20,598	$21,153	$29,919
EGI	$1,398,495	$335,616	$391,362	$401,907	$568,461
GIM	12.50	12.50	12.50	12.50	12.50
Altus Asmt	$17,481,188	$4,195,200	$4,892,025	$5,023,838	$7,105,763
Altus ASR	94.49%	107.16%	99.92%	100.00%	100.58%

The Complainant argued that Altus had tested their page 15 matrix results on page 16 by using a 12.50 GIM and found that the ASR for the majority of his property comparables achieved a near-perfect rating of 100%. Therefore, he argued, the market indicates a 12.50 GIM for these properties and the subject. In addition, he clarified that none of his market sales have been time-adjusted because they all occurred in what he considered to be the assessment "base year".

On page 17 of C-1 the Complainant identified a third matrix of 4 high-rise property comparables, to support from an equity perspective, the assessed rents he used in his page 16 matrix above herein. He presented:

address	2011 asmt	MRZ	storeys	units	bach	1's	2's	3's	bach	1's	2's	3's	vac	GIM
1307 - 12 st sw	$21,980,000	2	7	118	1	34	79	4	$925	$1,150	$1,300	$1,800	6.00	13.00
1030 - 16 av sw	$23,820,000	2	12	142		43	99			$1,015	$1,200		6.00	13.00
1320 – 16 av sw	$31,520,000	2	12	191		77	114			$1,015	$1,200		6.00	13.00
617 – 15 av sw	$10,650,000	2	9	63		16	47			$1,015	$1,200		6.00	13.00

The Complainant clarified that the first building at 1307 – 12 ST SW is rated as a "Good Quality" building whereas the latter three are close to each other and are rated as "Average Quality". The Complainant provided an exterior photo and the City's "Multi-Residential Detail Report" identifying the valuation parameters used to assess the 1320 – 16 AV SW property. He noted that he had used the "typical" one and two bedroom rent values identified in this City Report, for 4 of the 5 properties in his page 16 (C-1) matrix.

The Complainant referenced pages 23 and 24 of his C-1 brief. He introduced an "Altus Appraisal Division – Downtown/Beltline GIM Analysis" and a matrix entitled Multi-Residential Summary Report" prepared by the "Altus Appraisal Division" which offered its GIM calculations of the Complainant's 5 sales on his page 15. The detailed information for these 5 sales were identified in Altus "Transaction Data Sheets" on pages 25 – 27. It was noted that these GIM values differed slightly from the Complainant's page 15 values as follows:

Address	Average income /suite	$/suite	GIM	Page 15 GIM
725 – 15 AV SW	$1,044.16	$157,000	12.15	12.50
813 – 13 AV SW	$1,029.28	$157,000	12.71	12.43
1702 – 23 AV SW	$1,016.70	$145,000	11.88	11.67
1140 – 14 AV SW	$1,038.96	$153,000	12.27	12.51
835 - 6 AV SW	$1,242.12	$155,462	10.32	12.48

The Complainant clarified that the reason for the GIM differences was that the Altus Appraisal Division "likely used different rents and vacancy rates." The Complainant introduced one 2010 Calgary Composite Assessment Review Board Decision CARB 2298/2010-P, and two 2009 Municipal Government Board (MGB) Decisions to support his GIM identification methodology, but determined that they were, in his words, "not too applicable" to the current circumstances.

On pages 31 to 34 of C-1 the Complainant provided an excerpt of a City of Calgary "Assessment Brief" prepared for last year's (2010) appeal hearing of a building other than the subject or any of his comparables. On page 33 he referenced what he termed "the City's 2010 GIM study", a matrix of seven 2008 and 2009 sales, one of which was 835 – 6 AV SW, a comparable property he is using this year (2011). He noted that in 2010 the City had calculated a GIM of 12.48 for this property and Altus had agreed with that value. He also referenced a 2010 City of Calgary matrix on page 34 of C-1 entitled "2010 High Rise GIM Study Summary".

He noted that for beltline and downtown properties the City had identified GIM values of – mean 13.39; median 13.10; minimum 12.48; and maximum 15.51. The Complainant argued that the City had apparently not adjusted the GIM for 2011 from that used in 2010.

Respondent's Perspective;

The Respondent tendered his Brief R-1 and argued that the entire basis of the Complainant's GIM argument is significantly flawed. He pointed to the following;

Firstly, the Respondent argued that the Complainant is using market sales and equity comparables from buildings which are not comparable to the subject. He noted the subject is an "Average" quality building and the Complainant uses data from "Good" or superior quality buildings which are assessed using different, generally higher, rent parameters than the subject. He suggested that the Complainant uses the data from superior buildings to achieve a higher income and therefore a lower GIM. He argued therefore that by mixing certain data sets, the resulting calculations automatically create a flawed set of values.

The Respondent pointed to the Complainant's use of higher "typical" values used in three of his sale comparables, 813 – 13 AV SW; 725 – 15 AV SW and 1140 – 14 AV SW. He presented the Rent rolls for each of the three on pages 99 to 117 of R-1 which showed actual rents lower than the typical rents used by the Complainant. In addition he noted that for 1140 – 14 AV SW the Complainant used typical rents of $1,015 and $1,200 for one and two bedroom units when in fact it was assessed using $950 and $1,100. Therefore, the Complainant's data is flawed and the analytical results unreliable.

Secondly, in his page 15 GIM study, the Complainant relies on two sales which are "post facto" to the current assessment cycle. That is, they occurred after June 30, 2010. The two sales are 725 – 15 AV SW and 813 – 13 AV SW – both of which apparently sold December 16, 2010, some 6 months after the Legislated cut-off for assessment purposes. Hence, he argued, any purchaser on July 1, 2010 for example would have no knowledge of a later sale (post facto) that might occur in 2010. These two sales would not have been used in 2011 to calculate the GIM for any comparable property types, including the subject. To do so he argued is improper as confirmed by several previous Municipal Government Board (MGB) and Assessment Review Board Decisions, and in particular, recent Decision ARB 0665/2011 – all of which was provided on pages 119 to 123 of R-1;

Thirdly, the Complainant's sale at 1702 – 23 AV SW is an "Affordable Housing" Condominium high-rise building where all 27 individual units were sold together as a "package". It is completely unlike the subject which is not a Condominium property and is owned in its entirety by one entity. He provided the RealNet and Alberta DataSearch transaction sheets for the sale on pages 87 to 90 of R-1.

Fourthly, the reported date of the Complainant's 1140 – 14 AV SW sale (page 15 C-1) is November 3, 2009 and not April 27, 2010 and therefore the Complainant's data contains an important factual error, the importance of which is highly relevant in analysis. He noted that when calculating value, the City uses input data relevant to and based on the year of sale. The Respondent also clarified on page 81 (Alberta Datasearch sheet) that at the time of sale the Effective Gross Income (EGI) for 1140 – 14 AV SW was $336,000 not $411,960 as reported by the Complainant in his GIM Study on page 15 of C-1. In addition, the 2011 EGI was reported as $359,832. The Respondent argued that the Complainant's data is unreliable.

Fifthly, the Complainant has provided no rent rolls for any of his comparable buildings and is therefore arbitrarily and erroneously using higher "assessed" rents from other non-comparable buildings instead of referencing actual and/or market rent data. The Respondent again argued that this leads to flawed results. He also argued therefore that the Complainant's methodology is contrary to accepted appraisal theory and practice where it is also deemed to be improper to use assessments to create assessments.

And lastly, the Respondent argued that the Complainant failed to relate any of his 5 market sales back to the subject to demonstrate any level of comparability between them, and therefore, there is no support for any of the Complainant's GIM calculations. Moreover he noted, all else being equal, even if one were to change the GIM to 12.5 from 13, the resultant change in assessment would only amount to 2.8%, which is well within the generally-accepted 5% (plus or minus) tolerance in Mass Appraisal.

The Respondent also clarified that in the Complainant's "ASR Analysis" on page 16 of C-1 the calculations shown, contain certain factual errors. For example, and as noted in part above, he noted that the Complainant's Effective Gross Income (EGI) for both 725 – 15 AV SW and for 1140 – 14 AV SW are incorrect. He further noted that City had also analyzed and used the latter sale in its market valuation process as well. On page 99 of R-1 he provided the City's 2011 Assessment Request for Information (ARFI) document for the site and argued that when the correct EGI is used, the indicated GIM is 12.86 and not 12.51.

On page 98 the Respondent also provided the City's "Multi-residential Detail Report" for the latter property (1140 – 14 AV SW) and noted that its assessed rents are $950 and $1,100 for one and two bedroom units respectively, and not the $1,015 and $1,200 used by the Complainant. In addition, on page 112 of R-1 the Respondent provided the rent roll for 725 – 15 AV SW and noted that the actual rents in that property are lower than those used by the Complainant in his alternate calculations of value. The actual rents ranged from $950 to $1,100 per month for one and two-bedroom units whereas the Complainant had used $1,015 and $1,200. He argued that the City has used rents which are realistic for the building comparables – all as identified by an ARFI where available. He also argued that by improperly using incorrect high rents, the Complainant achieves a lower GIM, which is a flawed methodology.

On page 124 of R-1 the Respondent referenced the Complainant's four equity comparables from page 17 of C-1 noting that they are all "high quality" properties assessed at higher than normal rates for beltline high-rise properties and are therefore not comparable to the subject. He added that the average assessed rents used in the Complainant's five sales is $950 and $1,100 for one and two bedroom units and not the $1,015 and $1,200 used by the Complainant in both his equity chart on page 17 of C-1 and his sales data on page 16.

The Respondent referred to a matrix (see below on page 8) of his own 5 time-adjusted market sales on page 61 in his brief R-1. He noted that all sales were of "Average" quality high-rise buildings predominantly in the beltline although one is in the downtown core – that being 835 – 6 AV SW. He noted that three sales: i.e. 915 – 13 AV SW; 1122 – 15 AV SW; and 930 – 15 AV SW, were 2008 sales, while two others – i.e. 835 – 6 AV SW and 1140 – 14 AV SW were 2009 sales. He clarified that all five sales had been time-adjusted as per sound appraisal practice whereas the Complainant's were not. He further noted that the Complainant had also used the latter two sales, but had analyzed them quite differently than the City.

He clarified that to correctly value each of the 5 properties in the sale year, the City uses the typical valuation parameters that were common to that year – i.e. for 2008 sales, the 2008 typical valuation inputs are used, and for 2009 sales, the typical 2009 valuation inputs are used. He clarified that the Complainant has not followed this methodology and his results are flawed and unreliable.

The Respondent argued that having used year-specific values, the City's analysis of its five market sales (shown below) reveal GIM values that support the 13 GIM used to assess the subject. He noted on page 62 of R-1 that the average GIM is 12.89 and the median GIM is 13.03. The Respondent argued that when the sales – particularly those of the Complainant's (two sales), are time-adjusted and the correct year valuation parameters used, not only is the correct GIM achieved, but the Assessment To Sale Ratios (ASR) fall within the mandated range of 95% to 105% under Mass Appraisal.

The Respondent provided the following analytical matrix (pg 61) containing his five market sales. He also provided the RealNet sheets for each sale, commencing on page 63 of R-1.

	915 – 13 AV SW	1122 – 15 AV SW	930 – 15 AV SW	835 – 6 AV SW	1140 – 14 AV SW
Market area	MR2	MR2	MR2	MR1	MR2
Community	Beltline	Beltline	Beltline	DT Com Core	Beltline
No. Of suites	33	84	64	121	32
No. Bachelor	0	0	0	0	0
1- Br	21	50	42	81	22
2- Br	12	34	22	38	10
Year of construction	1982	1979	1976	1964	1965
1 Br rent	$975	$975	$975	$975	$975
2 Br rent	$1,150	$1,150	$1,150	$1,150	$1,150
PGI	$411,300	$1,054,200	$795,000	$1,472,100	$395,400
vacancy	2%	2%	2%	2%	2%
Year of sale used	2008	2008	2008	2009	2009
Typical EGI – year of sale	$403,074	$1,033,116	$779,100	$1,398,495	$375,630
Commercial assessed value	0	0	0	$1,044,325	0
GIM sale price/typical EGI year of sale	13.10	12.70	13.14	12.48	13.03
Sale date	21 Aug. 08	26 Aug. 08	20 Oct. 08	02 April 09	03 Nov. 09
Sale price	$5,280,000	$13,121,120	$10,240,000	$18,500,000	$4,896,000
Price per suite	$160,000	$156,204	$160,000	$144,262	$153,000
Time/adjusted sale price	$4,852,320	$12,058,309	$9,594,880	$18,333,500	$4,896,000
Time/adjusted sale price per suite	$147,040	$143,551	$149,920	$142,886	$153,000
2011 assessment	$4,839,120	$12,449,736	$10,122,559	$17,461,180	$4,677,816
ASR (sale price)	92%	95%	99%	94%	96%
ASR (time adjusted sale price)	100%	103%	105%	95%	96%

The Respondent argued that the information illustrated in the foregoing matrix contains time-adjusted year-of-sale specific data, as well as confirmed site data from building-specific rent rolls and ARFI documents and is therefore accurate and reliable. He argued this data demonstrates that the City's market data, inputs, and analytical processes, have produced a realistic and accurate GIM of 13 which has been consistently applied to all other comparable properties.

The Respondent provided three Calgary Composite Assessment Review Board (CARB) Decisions – CARB 227/2010-P; CARB 2249/2010-P; and CARB 2250/2010-P which he argued applied to three properties similar to the subject. He argued that in the three Decisions, the Boards found the Altus GIM study to be flawed for similar reasons as outlined today in this hearing, and confirmed the assessments. The Respondent requested that the Board confirm the assessment at $97,100,000.

Board's Decision in Respect of Issue #1 - Reasons

1. The Board considers that the Complainant's position regarding Issue #1 fails for the following reasons:

1. While the Respondent alleged and the Complainant acknowledged that he had intermixed "Good Quality" and "Average Quality" equity comparables on pages 15 and 17 of C-1, the Board considered that it received insufficient information to determine the comparability of each of the subject and purportedly comparable buildings and the rents assigned to them as advanced by both parties. It was apparent to the Board from the extensive evidence (rent rolls, equity charts, assessment sheets, etc.) regarding this point, that the Complainant had used rent data in his GIM calculations that were incorrect. The Board considered that quality notwithstanding, the resulting GIM and related calculations prepared by the Complainant were unreliable.

2. The Complainant provided five market sales – two of which (725 – 15 AV SW and 813 – 13 AV SW) are *post facto* by at least 6 months (Dec. 16, 2010) and would not have been available for use in the City's 2011 assessment process for the subject or any property. The Board places little weight on these two sales for the current assessment year.

3. A third Complainant sale at 1702 – 23 AV SW is a 27-unit Condominium property which the subject is not. The RealNet and ADS sale documents, as well as the Alberta Land Titles documents provided by the Respondent confirm that it was acquired by the "Calgary Homeless Foundation" and that – according to RealNet, the *"rental income stream was not the primary motivating factor for the acquisition"*. Therefore, this sale cannot be considered as being a comparable property for the purposes of determining the subject assessment.

4. The Board accepts the Respondent's evidence which appears to demonstrate that the Complainant's sale at 1140 – 14 AV SW as shown on page 16 of C-1 contains several factual errors and hence the indicated GIM, and the Assessment to Sale Ratio (ASR) calculated from its parameters is unreliable.

5. The Complainant is then left with one sale which the City has accepted as valid and has used in its broader analysis of the market. However the Board considers that this one sale is insufficient to demonstrate that the "typical" GIM used by the City is incorrect.

6. The Board accepts that the City has adjusted and analyzed its 2008 and 2009 market sales by using year-of-sale-specific parameters to identify appropriate GIM values. It has then used those values in the 2011 assessment cycle. The Complainant however has opted instead to use current year "typical" assessment parameters which have resulted in unreliable flawed values. The Complainant also failed to provide any market evidence in the form of rent rolls or other similar data to support his rent values. Assessed rents are just that – they are not market rents.

7. In addition, unlike the Respondent, the Complainant has failed to "time-adjust" his sales pursuant to accepted industry practice. The Board does not accept the Complainant's argument that just because the sales occurred in the so-called "base year" they do not need to be time-adjusted at all.

8. The Board accepts the 5 time-adjusted market sales as advanced by the Respondent as having been properly analyzed with sale-date-specific data, based upon a broader analysis of the market zone in which they are located. These sales on the whole were largely unchallenged by the Complainant and support the assessed GIM of 13. They also demonstrate Assessment to Sale Ratios (ASR's) that are within the accepted .95 to 1.05 range for Mass Appraisal.

9. Given the foregoing, the Board will not reduce the GIM from 13 to 12.5 as requested by the Complainant.

Issue #2 : "The Office/Retail rent rates used in the assessment is incorrect at $200 and $275 per SF respectively."

Complainant's Perspective

The Complainant clarified that the subject is a multi-residential apartment building with 18,303 square feet (SF) of main floor retail/commercial space and 2,605 SF of main floor office space assessed at $275 and $200 per SF respectively. He argued this is excessive and inequitable when compared to other similar properties. He considered it should be 50% less. He further questioned how the City substantiates its rates of $200 for office, and $275 for retail spaces?

On page 60 of C-1 the Complainant provided an excerpt of a rent roll for the subject. He pointed out that the two most recent retail leases were from 2009 and 2010 and showed $18 per SF. Several other leases were "dated" from 2001, 2005 and 2006. He argued that the subject is a "special and unique property but is under-performing" in the market and this data confirms the same.

On page 61 the Complainant provided 17 commercial rents from 4 buildings in a matrix entitled "Boardwalk Commercial Rent Summary". Two buildings representing two rent leases were from beltline locations on 12th and 14th AV SW, while 15 rents were from downtown locations on 5th and 7th AV SW respectively. The matrix demonstrated office rents ranging from $9 to $13.50 per SF, and retail rents ranging from $14 to $25 per SF.

On page 62 the Complainant provided a matrix of office and retail assessed rents from 10 downtown (DT-1 and DT-2) buildings he deemed comparable to the subject. The data showed assessed office rents ranging from $105 to $107 per SF and assessed retail rents from $184 to $216 per SF. He provided the respective City "Non-Residential Properties – Income Approach Valuation" sheets and exterior photos for each of the 10 property comparables.

On page 73 of C-1 the Complainant presented a matrix of assessed office rents from eleven "B" quality beltline office buildings – six of which contained retail spaces. The locations of the buildings were in beltline 1,2,3,4, and 6. The assessed rate for the eleven office spaces was $121 per SF whereas the retail rates ranged from $181 to $221 per SF. He argued that this data indicates that the assessed rates of $275 and $200 per SF for the office and retail rates are inequitable.

The Complainant argued that if one were to "mathematically extract" the commercial/office spaces from the market value calculation generated by the City for the subject, and insert an $11 per SF rate for the 2,605 SF of office space, and $18 per SF for the 18,303 SF of Retail space, then the commercial/office spaces should be valued at an aggregate $2,955,623 and not the $5,554,325 assessed.

On page 59 the Complainant provided a matrix entitled "Altus Commercial Component Valuation" wherein he provided three calculations of commercial/retail value – two City commercial-only valuations and one Altus commercial-only valuation using the value parameters he identified on pages 60 to 62.

The matrix appeared as follows:

	Altus Request	City DT Assessment	City Current
Office Area (sq ft)	2,605	2,605	2,605
Office rate ($/sq ft)	$11.00	$11.00	$200.00
Subtotal	$28,655	$28,655	
Less vacancy %	12%	9.0%	
Effective Gross Income	$25,216	$26,076	
Less Non-recov (%)	2.0%	3%	
Less Shortfall ($/sq ft)	$15.00	$9.50	
Net Operating Income	$20,023	$23,066	
Retail Area (sq ft)	18,303	18,303	18,303
Retail rate ($/sq ft)	$18.00	$21.00	$275
Less vacancy %	12%	12.0%	
Effective Gross Income	$289,920	$338,239	
Less Non-Recov (%)	2%	3%	
Less shortfall ($/sq ft)	$14.00	$14.00	
Net operating Income	$253,372	$297,343	
Total NOI	$273,395	$320,410	
Capitalization rate %	9.25%	9.25%	
Property value (commercial)	$2,955,623	$3,463,889	$5,554,325

The Complainant argued that this data confirms that the subject is over-assessed.

Respondent's Perspective;

The Respondent referenced pages 139 to 143 of R-1 and argued that the Complainant's analysis is flawed. He argued that the Complainant's comparable properties are not comparable at all but in fact are different asset classes. He also argued that the Complainant has examined the office rents from downtown high rise office buildings and applied them to a multi-unit high rise residential apartment building (see matrix above). This is incorrect and invalid methodology. He further argued that the Complainant implies that the commercial component would sell differently and separate from the residential component which is incorrect. One cannot separate the two components in the subject in this manner.

The Respondent argued that the 9.25% Cap Rate used in the Altus calculation (matrix above) is purely arbitrary since the Altus request actually supports a 4.8% cap rate. He also argued that the Altus Appraisal Section data provided by the Complainant shows a 6% Cap Rate but the Complainant (Altus) has used 9.25% in his calculations for the subject. In addition the Respondent argued on page 140 of R-1 that the 2% "non-recoverables" value used in its above calculation is taken from non-comparable properties. Therefore, this adds to the flawed nature of their calculation.

The Respondent argued on page 141 of R-1 that the Complainant's page 62 matrix of "Downtown Office and Retail Assessment Rates" are all "C" Class downtown office buildings from different downtown market zones – i.e. DT-1 and DT-2 but the Complainant has provided no information as to precisely how these buildings are comparable to the subject in any way – just that they are alleged to be comparable.

On page 142 of R-1 the Respondent argued that the Complainant's eleven "Assessed" office and retail rates in his page 73 (C-1) matrix are also not comparable. He argued they are all "B" class office buildings in the beltline to which the Complainant has compared "C" class buildings in the downtown core – two entirely different (economically) market zones. He questioned how "B" class office buildings in the core can be comparable to "C" class buildings in the beltline?

On page 143 of R-1 the Respondent argued that the Complainant's calculations of alternate value are flawed when his rental values are used in valuations. He referenced his page 61 matrix (above) and focused on his comparable #4 – Sundial apartments. He argued that when the Complainant's retail and office rents are inserted into this calculation, the Commercial assessed value drops from $1,044,325 to $695,000 and the resulting GIM increases from 12.48 to 12.73. He argued that this valuation runs counter to the Complainant's request to reduce the GIM to 12.5 from the assessed 13.

On page 149 of R-1 the Respondent argued that Altus has used the City's commercial value rates in its page 15 (C-1) "Downtown/Beltline High-Rise GIM Study" for its first comparable at 835 – 6 AV SW to support its GIM conclusions, but not in calculating the assessment. He argued that this is improper appraisal methodology. The Respondent re-iterated that if one were to assume no change to the subject's GIM, but accept the Complainant's requested retail/office rent change, the net effect would be a 1.93% reduction in value. He reiterated that 1.93% is well within range of the provincially-mandated and accepted Mass Appraisal standards of plus/minus 5%.

Board's Decision in Respect of Issue #2 - Reasons

The Board considers that the Complainant's position regarding this Issue fails for the following reasons:

1. The Board is convinced from the evidence and argument presented that the Complainant has failed to demonstrate precisely how each of his property comparables are in fact comparable to the subject. The Board is not assured that the per square foot values attributed by the Complainant to the commercial/office spaces from those comparables, are applicable to the subject as well.

2. The evidence from the Respondent demonstrates that the Complainant's property comparables are not comparable to the subject because the Complainant uses downtown high rise office building lease values and applies them to a high-rise multi-residential building. The Board does not accept that these are comparable properties.

3. The Board finds that the Complainant has used, mixed, and compared assessed rates from different "Classes" of buildings (i.e. "B" Class and "C" Class) in different market zones to derive alternate calculations of value for the subject. The Board accepts the Respondent's arguments that this is improper methodology which is not industry-accepted. The Board does not accept the Complainant's value calculations because of this faulty methodology.

4. The Board finds that the capitalization rate and the non-recoverables values used by the Complainant in his alternative "Income Approach to Value" calculations are not supported by any relevant market evidence. Indeed, the Cap Rate calculated and published by the Complainant's own company demonstrates a 6% cap rate whereas the Altus Agent has used 9.25% which is unsupported. The Board concurs with the Respondent regarding this point. The Board finds the resulting values advanced by the Complainant from these calculations to be speculative and invalid.

5. The Board is not convinced, on the basis of only two recent retail leases in the subject – one for 744 SF of space, and another for 1,144 SF of space – both at $18 per SF that this value is typical of the market for either the subject's 18,303 SF of retail space, or retail space in comparable properties.

6. The Board finds that the City has approached the assessment of the subject in a consistent manner and the Respondent's evidence supports the assessed value. The Board will not make any change to either the retail/commercial or the office rates used to assess the subject.

Issue #3: "The typical residential rent rates used in the assessment are incorrect."

Complainant's Perspective

The Complainant argued the subject is atypical and provided an alternate calculation of value for the subject in a matrix on page 10 of C-1 using the suite rent values he gleaned from the

July 14, 2010 residential rent roll which he provided on pages 45 to 54 of C-1. The matrix appeared as follows:

924 – 7 AV SW	Altus	City
bachelor units rent	206 $900	206 $925
1 bedroom units rent	260 $975	260 $975
2 bedroom units rent	136 $1,150	136 $1,200
3 bedroom units	0	0
4 bedroom units (Penthouse)	6 $1,750	6 $1,750
PGI Vacancy	$7,269,600 5.0%	$7,413,000 5.0%
EGI GIM	$6,906,120 12.50	$7,042,350 13.00
Residential value	$86,326,500	$91,550,550
Commercial value	$2,950,000	$5,550,000
Requested assessment	$89,270,000	$97,100,000

The Complainant argued that this data confirms that the subject is over-assessed.

Respondent's Perspective;

The Respondent argued that the Complainant's analysis is flawed. He argued that the Complainant has used actual values from the subject's rent roll whereas the assessment was calculated using "typical" values from the broader community as is required under Mass Appraisal.

The Respondent argued that while the Complainant is using $900 and $1,150 per month for bachelor and two-bedroom units respectively, when one examines the rent roll for the subject as supplied by the Complainant, it is unclear as to precisely where this data comes from. He argued that the Complainant has used only 2010 leases/rents to calculate monthly rent values in the subject, but when the 2009 leases are included, the rent/lease values change and closely match those assessed. Therefore, he argued the subject is not atypical.

The Respondent argued that the rent roll supplied for the subject by the Complainant supports the assessment.

Board's Decision in Respect of Issue #3 - Reasons

The Board considers that the Complainant's position regarding this Issue fails for the following reasons:

1. The Board finds from the evidence and argument presented that the rent roll for the subject as provided by the Complainant supports the assessment. While the Complainant limited his rent analysis to only 2010 monthly rents, it is clear to the Board that when valid 2009 rent values are included, the resulting values very closely

approximate the "typical" rents used to assess the subject.

2. The Board disagrees with the Complainant that the subject is not typical, because the rent roll provided in the Complainant's own evidence, supports the assessed suite/unit values. The Board finds no compelling reason in this appeal to substitute actual rent values for typical rent values, particularly given the requirement to use typical rent values in Mass Appraisal.

3. The Board finds that all else being equal, should the Complainant's actual rent values be used to calculate the subject's assessment, the difference in assessed value would amount to a 1.93% reduction, which is well within the plus or minus 5% range in Mass Appraisal.

4. The Board finds that both the Respondent's and the Complainant's evidence supports the assessed value, and the Board will not change any of the typical monthly rent/lease rates (per suite) used to assess the subject.

Board's Decision:

The assessment is confirmed at $97,100,000.

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

K. D. Kelly,
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	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.*

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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Multi-family with office/retail components	high rise	Income vs comparable market value Approach - GIM	Market zone comparisons