

**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:

**1322284 ALBERTA LTD., COMPLAINANT
(Represented by ALTUS GROUP LTD.)**

and

The City Of Calgary, RESPONDENT

before:

**Board Chair P. COLGATE
Board Member Y. NESRY
Board Member D. POLLARD**

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: 075077503

LOCATION ADDRESS: 2036 36 STREET SE

HEARING NUMBER: 63761

ASSESSMENT: \$847,500.00

This complaint was heard on 17 day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *Kam Fong, Altus Group Ltd. – Representing 1322284 Alberta Ltd.*

Appeared on behalf of the Respondent:

- *Kelly Gardiner - Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

The subject property is a one storey retail property of 4,080 square feet located in the community of Forest Lawn.

Issues:

1. What are the correct rental rates to be applied to the subject space?
2. Was the subject property equitably assessed in comparison to comparable properties?

Complainant's Requested Value: \$650,000.00

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

Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

The Board reviewed evidence specific to the issues.

ISSUE:

Complainant's Evidence:

The Complainant requested the rent rate for the subject property be reduced from \$18.00 to \$14.00 per square foot.

The Complainant submitted Decision LARB 0159/2011-B for the subject property. The Decision of the Local Assessment Review Board (LARB) reduced the net annual rental value (NARV) from \$18.00 to \$14.00 per square foot. The Decision states that the reduction was granted for: *"A variance is warranted on the basis of both equity and market rents."* (C1, Pg 24-27)

The Complainant submitted an equity report, "2011 Business Assessment Comparable Report" produced by The City of Calgary, which provided eleven automotive mechanical repair facilities. The report shows a consistently applied NARV of \$14.00 per square foot. Five of the comparable properties are located on International Avenue - 17 Avenue SE in Forest Lawn. (C1, Pg 31)

A lease comparable report, "2001 Business Lease Comparable Report" prepared by The City of Calgary, was submitted, providing seven leases for automotive mechanical repair facilities. The median value for the leases was \$15.23 per square foot with a mean of \$15.11 per square foot and the weighted mean at \$15.02 per square foot. (C1, Pg 32)

The Complainant submitted an equity table which provided seven premises and the NARV rate being applied to each. The calculated mean and median NARV was \$8.50 per square foot. (C1, Pg. 33)

The Complainant submitted a lease table which provided eight premises and the lease rate being paid for each one. The calculated mean lease rate was \$12.19 and the median lease rate was \$12.75 per square foot. (C1, Pg. 34)

The Complainant submitted the rebuttal document prepared for the LARB hearing on 2036 36 Street SE, the subject property. The Complainant, through testimony and documents, showed the subject property was rated a 'B-' quality structure constructed in 1980, whereas the comparables submitted by the Respondent were of 'B' quality, mostly constructed in the 1990's. (C1, Pg. 35-47)

Respondent's Evidence:

The Respondent submitted a document and stated all spaces classified as 'B+', B or B-' were assessed at a rate of \$18.00 per square foot. (R1, Pg. 19)

A City of Calgary 2011 Business Lease Comparable Report was submitted providing four leases of premises similar to the subject. Two of the leases are for premises located on International Avenue/17th Avenue SE and have leases of \$17.35 and \$19.72, which support the rent rate applied to the subject. (R1, Pg. 19)

The Respondent submitted a 2011 Business Assessment Comparable Report which showed five business premises with the same NARV of \$18.00 as the subject property. This supports the Respondents statement all premises classified as 'B+', B and B-' were assessed using the same rent rate.(R1, Pg. 21)

As response to the Complainant's equity table (C1, Pg. 33), the Respondent submitted a 2011 Business Assessment Comparable Report which indicates the Complainant's equity comparables were of different qualities, size and space types. (R1, Pg 23)

The Respondent submitted a document to show the NARV rates applied to 'C' quality structures and five leases for 'C' quality premises. It was the Respondent's position 'C' quality premises will rent for a lower rate and accordingly the NARV is lower. (R1, Pg. 24)

Findings of the Board

Complainant's Submission:

With respect to the LARB Decision 0159/2011-B, the Board noted a Decision may provide guidance, but there is no requirement in law for the Decision to be applied in another hearing. The decision for each hearing must be based upon the evidence presented to the separate Board constituted to hear the evidence. In this case the request is for a decision of the business assessment to be applied to an assessment determined under the mandate of the Municipal Government Act.

The Board found the Equity and the Lease comparable reports submitted by the Complainant informative, the question regard to the quality classification was not presented into evidence. The Board reviewed the evidence submitted and found the equity and leases were more reflective of 'C' quality premises. This is supported by the 2011 Business Assessment Notice submitted on the subject property, which is identified as a 'B-' quality premise, which had values with a NARV of \$18.00 per square foot. (C1, Pg. 12) As one of the properties is consistent between the equity and lease documents the Board found the leases to represent 'C' quality premises. Accordingly, the Board placed less weight on these documents.

When reviewing the equity table (C1, Pg. 33) the Board again found a lack of information which lessened the significance of the document. The Complainant has failed to show how the comparables relate to the subject. Were they assessed as a similar quality? Were they of similar use? Were the premises of the same type? These variables would have an impact on the assessment rates applied to the individual premises. For equity comparison to have an impact the subject and comparables must exhibit common features. The lack of supporting documentation has left the Board with many questions, therefore placing less weight on the document during deliberation.

The review of the lease document (C1, Pg 34) presents the Board with again the same difficulties. The lack of supporting documentation minimizes the weight the Board can place on the Complainant's document.

The Complainant's rebuttal document for the LARB hearing does show the comparables submitted by the Respondent are of a higher quality classification and newer construction. The Board noted the leases for the comparables provided in the reports support the rate of \$18.00 per square foot applied by the City of Calgary.

Respondent's Submission:

The Board found the Respondent's submission provided more compelling evidence to support the rent rate of \$18.00.

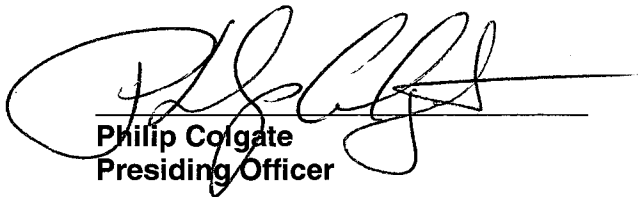
The response to the Complainant's equity table (R1, Pg 33) supports the Board's analysis that there was insufficient information contained in the table to provide support for the Complainant's requested rent rate.

Board's Decision:

Based upon the review of the evidence submitted by the Complainant and the Respondent, the Board found there was insufficient market or equity evidence to support an adjustment to the assessment.

The Board confirms the assessment at \$847,500.00.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF November 2011.



Philip Colgate
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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand Alone	Income Approach	-Net Market Rent/Lease Rates -Equity Comparables

LEGISLATIVE REQUIREMENTS**MUNICIPAL GOVERNMENT ACT****Chapter M-26**

1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Division 1**Preparation of Assessments****Preparing annual assessments**

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

289(2) Each assessment must reflect (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

ALBERTA REGULATION 220/2004**Municipal Government Act****MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) "assessment year" means the year prior to the taxation year;

Part 1**Standards of Assessment****Mass appraisal**

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.