



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:

Hampton Development Ltd. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER
D. Pollard, BOARD MEMBER
E. Bruton, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER:	091035402
LOCATION ADDRESS:	4040 Blackfoot Trail SE
FILE NUMBER:	71740
ASSESSMENT:	\$10,830,000

This complaint was heard on the 27th day of August, 2013 at the office of the Assessment Review Board located at Floor Nurnber 4, 1212 – 31 Ave. NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *D. Mewha – Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *T. Luchak – Assessor – City of Calgary*

Regarding Brevity

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None

Property Description:

[3] The subject is a 1956 era 145,000 square foot (SF) (assessable area) multi-tenant industrial building on a 4.82 acre (Ac.) land parcel in the central region's Highfield industrial area. The site on Blackfoot Trail has Cash Casino as its major tenant with a self storage facility at the rear of the building. The subject has a building footprint of 96,501 SF; 35% interior finish; 45.95% site coverage, and is assessed at \$74.74 per SF. The total assessment of the site is \$10,830,000.

Issues:

[4] What is the correct value per SF to be applied to the assessment of the subject?

Complainant's Requested Value:

[5] The Complainant requests that the assessment be reduced to \$9,280,000 based on \$64 per SF.

Board's Decision:

[6] The Board confirmed the assessment at \$10,830,000.

Legislative Authority, Requirements, and Considerations:

[7] Under the *Municipal Government Act* (MGA), the Board cannot alter an assessment which is fair and equitable.

[8] MGA 467 (3) states:

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the valuation and other standards set out in the regulations, the procedures set out in the regulations; and the assessments of similar property or businesses in the same municipality."

[9] The Board examines the assessment in light of the information used by the assessor and the additional information provided by the Complainant. The Complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities. If the original assessment fits within the range of reasonable assessments and the assessor has followed a fair process and applied the statutory standards and procedures, the Board will not alter the assessment. Within each case the Board may examine different legislative and related factors, depending on what the Complainant raises as concerns.

Positions of the Parties**(a) Complainant's Position:**

[10] The Complainant provided and addressed the characteristics of the subject via a copy of the City's Assessment Explanation Supplement. He argued that the subject, having been assessed at a value approaching \$75 per SF, is over-assessed when compared to other nearby properties which he considered comparable to the subject. He argued that analysis of six property comparables leads him to conclude that \$64 per SF is both fair and equitable for the subject.

[11] The Complainant provided a matrix on page 17 of his Brief C-1 containing the details of six property comparables which sold between April 2010 and December 04, 2012. He argued that the individual and aggregate characteristics of these six properties are highly similar to the subject and therefore their respective per square foot market values are a reliable indicator of alternate value for the subject.

[12] The Complainant argued that while his six property comparables are up to 20 years newer in age than the subject, a simple adjustment for age in his valuation process, would render them similar to the subject. He also clarified that several corrections needed to be made to the data in this matrix for three of the property comparables,.

[13] The Complainant noted that size corrections were required for properties at 415 Manitou RD SE, and 303 – 58 AV SE. He also noted that the selling value per square foot; the time-adjusted per SF values; and the 2013 assessed values for these two sites also had to be corrected. He also noted that the per SF selling price for a property at 7120 Barlow Trail SE also needed to be corrected.

[14] The Complainant argued that while two of his six property comparable sales at 3916 – 72 AV SE and 7120 Barlow TR SE respectively, might be considered to be "*Post Facto* sales " (i.e. after July 1, 2012) he considered that they still represented a trending of values which support the remaining four "in time" market sale values in his matrix. He provided a copy of Calgary Assessment Review Board Decision CARB 72577-P-2013 in support of this argument. He argued that the range of values represented by the six (corrected) market sales supports his request for \$64 per SF.

[15] The Complainant provided the RealNet and Commercial Edge data sheets for each of his six property comparables and reviewed each one in detail to identify individual site characteristics of each property and compared them to the subject. He noted that his property comparable at 415 Manitou RD SE had recently been renovated on the exterior and was closest in age and proximity to the subject, and the nearby Blackfoot Motor Sports sales and service building. He considered this property to be his "best" comparable and a good indicator of lesser market value to be applied to the subject.

[16] The Complainant noted in rebuttal that while both he and the Respondent were essentially using the same property comparables, the assessment-to-sale ratios for his six sites, as prepared by the City, appeared to be either excessive at 131% or lacking at 94% of the ideal 100%. He argued that this factor tends to indicate that the City's assessment model used for Mass Appraisal is faulty and the subject is unfairly penalized because of it. Therefore he requested that the assessment be reduced to \$9,280,000 based on \$64 per SF.

(b) Respondent's Position:

[17] The Respondent argued that by policy and practice, the Assessor cannot use "*Post Facto*" market sales and would not have used the Complainant's two sales at 3916 – 72 AV SE and 7120 Barlow Trail SE in its annual analysis of the market. While he concurred that *Post Facto* sales can be used to indicate market trends, a methodology accepted in some Assessment Review Board Decisions, they should not be relied upon for definitive value for any particular site.

[18] The Respondent also argued that the Complainant has not factored essential adjustments for parcel size (i.e. land size differential); age of building; and type of use (i.e. single or multi-tenant), into his calculations of value and this has skewed his comparative site characteristics and valuation results. Moreover, he argued, the Complainant has relied upon incorrect site characteristics such as assessable area sizes which have led to incorrect conclusions regarding selling price per SF; time adjusted selling prices per SF; and comparative assessment values for his property comparables. He referenced the Complainant's sale details for 415 Manitou RD SE which indicated an incorrect building size as an example.

[19] The Respondent concurred with the Complainant that there were not many sales of buildings in the central district and Highfield industrial area, and this made acquisition of property comparables to compare to the subject problematic. Nevertheless, he provided two comparables – which the Complainant had also supplied – 415 Manitou RD SE, and 303 – 58 AV SE. He carefully detailed the specific property characteristics of each of these sites, also supplying and referencing the RealNet and Alberta DataSearch (ADS) detail sheets.

[20] The Respondent noted that while the Complainant relied upon property comparables from SE Calgary, he argued that the SE area of the city is inferior (in terms of generally-recognized property values) in value to the central and Highfield districts because of access limitations. He argued that the central district, being close to downtown Calgary, has many more access points which tends to increase the value of industrial properties there. He argued that when the proper corrections are made to the Complainant's property comparables, such as he had provided, then the resultant values support the assessment.

[21] The Respondent provided the City's Assessment Request for Information (ARFI) sheets for the Complainant's property comparable at 7120 Barlow TR SE. He argued that in addition to being a *Post Facto* sale, it is not a reliable sale for assessment purposes because the pre-arranged agreement to sell the site was documented to have taken place in 2009 – much too far in advance of its ultimate sale date of December 4, 2012.

[22] The Respondent requested that the assessment be confirmed at \$10,830,000.

Board's Reasons for Decision:

[23] The Board finds that while the Complainant provided six property comparable sales, the calculated per square foot values therefrom appear to be unreliable as indicators of alternate value because the individual site characteristics and related values of two properties used in the calculations are not only incorrect, but appear to the Board to be dissimilar to the subject.

[24] The Board finds that while the Complainant provided six property comparables, two of them are *Post Facto* sales which, although they may have indicated a valuation trend, they would not have been used to calculate the subject's assessment.

[25] The Board finds that the Complainant relied on six unadjusted market sales, which, when the two post Facto sales are excluded, contained significant factual errors in the individual site characteristics in two of the remaining four properties. Even when corrected, the values remain unadjusted and hence questionable as to accuracy. The Board considers the analysis and value conclusions of the Complainant's remaining four property comparables to be unreliable as an indicator of alternate value for the subject.

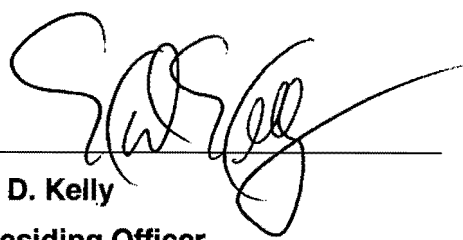
[26] The Board finds that the Respondent provided fully-adjusted market sales which, while limited in number, support the assessment of the subject because the individual characteristics of each comparable appear to closely align with those of the subject. The Board accepts that the individual site characteristics, and adjustments made to them for comparative purposes, are correct given the data provided to the Board from both parties on each of the properties.

[27] The Board finds that the Respondent's adjustments to each of his property comparables as completed by the City's Mass Appraisal model, have resulted in assessed values which appear to be correct, fair and equitable when compared to similar properties displaying similar characteristics.

[28] The Board finds that while the Complainant suggests that the Assessment to Sale Ratios for his six market sales appear to be poorly-aligned with accepted norms of 100% in Mass Appraisal, in any small sample of similar properties there will tend to be outliers, and such may be the case with those properties selected in the small sample provided to the Board by both parties.

[29] The Board finds that the Complainant provided insufficient information to demonstrate that the assessment of the subject is incorrect, unfair, or inequitable.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF September 2013.



K. D. Kelly
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C-1	Complainant Disclosure
2. C-2	Complainant Disclosure - Rebuttal
3. R-1	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	industrial	Multi-tenant site	market value	equity