

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:

418125 Alberta Inc. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

P. McKenna, BOARD MEMBER

A. Zindler, BOARD MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER	LOCATION ADDRESS	FILE NUMBER	ASSESSMENT
200847564	2240 4818 WESTWINDS DR NE	72406	\$328,000
200847572	2230 4818 WESTWINDS DR NE	72407	\$327,000
200847556	2220 4818 WESTWINDS DR NE	72408	\$682,500
200847523	2130 4818 WESTWINDS DR NE	72405	\$628,500

This complaint was heard on the 8th day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6

Appeared on behalf of the Complainant:

- A. Izard (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- F. Taciune (City of Calgary)

Observers:

- A. Hendrata (City of Calgary)
- J. S. Villeneuve (City of Calgary)

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

- [1] There were no concerns with the board as constituted.
- [2] The Respondent has visited the site, while the Complainant has not.
- [3] The parties have discussed the file.
- [4] The parties agreed that Files Numbered 72406, 72405, 72407 and 72408 would be heard together, as they are in the same condominium complex, they have the same owner and the evidence and arguments are the same for each property.

Preliminary Matter:

- [5] In reviewing the File prior to the presentation of evidence, it was noted that the Assessment Complaints Agent Authorization Form was only completed for 2220 4818 Westwinds DR NE and there was no Agent Authorization Form for 2130, 2230 and 2240 Westwinds DR NE. The Complainant submitted it was likely an oversight, as all of the properties are in the same building and have the same owner. The Respondent concurred with the Complainant.
- [6] The Complainant undertook to provide the missing Assessment Complaints Agent Authorization Forms.
- [7] The Respondent had no objection to proceeding with the Hearing for the properties that did not have an Assessment Complaints Agent Authorization Form.
- [8] The Board decided to proceed with the hearing as the subject properties are in the same condominium complex, with the same owner and it would be possible for the owner to believe it had given authorization for all of the properties, when completing only one form. The properly completed forms were provided on October 29, 2013.

Property Description:

[9] The subject property is a 2.78 acre parcel located in the Westwinds community in NE Calgary. The site is improved with 2, two storey buildings that are condominiumized. The subject condominiums are located in Building B. There are two smaller units (1,276 and 1,279 sf) and two larger units (2,504 and 2,730 sf). The building was constructed in 2004 and is classified as A2 quality. The subject condominiums are assessed at the rate of \$250.00 psf using the Sales Comparison approach to value.

Issues:

[10] An "assessment amount" and "an assessment class" were identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely: "the assessed value is incorrect".

Complainant's Requested Value:

[11] The Complainant requested the assessments be reduced to a unit rate of \$200.00 psf, which would result in reduced assessments as follows:

Roll Number	Address	Area (sf)	\$/SF	Requested Assessment
200847564	2240 4818 Westwinds DR NE	1,279	\$200.00	\$255,800
200847572	2230 4818 Westwinds DR NE	1,276	\$200.00	\$255,200
200847556	2220 4818 Westwinds DR NE	2,730	\$200.00	\$546,000
200847523	2130 4818 Westwinds DR NE	2,504	\$200.00	\$500,800

Board's Decision:

[12] The 2013 assessments are confirmed as follows:

Roll Number	Address	Assessment
200847564	2240 4818 Westwinds DR NE	\$328,000
200847572	2230 4818 Westwinds DR NE	\$327,000
200847556	2220 4818 Westwinds DR NE	\$682,500
200847523	2130 4818 Westwinds DR NE	\$628,500

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000, Section 460.1:

- (2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection(1)(a).

MGA requires that:

293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

- 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.
- 4(1) The valuation standard for a parcel of land is
 - (a) market value, or
 - (b) if the parcel is used for farming operations, agricultural use value.

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

Issue: What is the unit rate to be applied, to determine the market value, for assessment purposes?

Complainant's Position:

[13] The Complainant's Disclosure is labelled C-1.

[14] The Complainant, at page 25, noted the assessments had increased over 300% for the smaller units, and 550% to 615% for the larger units, over the previous year. However, through questioning, it was acknowledged that the reported assessment for 2012 was in error because of a computer "glitch".

[15] The Complainant, at page 25, provided a table titled, Office Condo Sales. The table contains details of 5 sales which occurred in the period December 6, 2010 to October 18, 2011. The sale prices per square foot (psf) range from \$144.59 to \$332.98 psf. The median of the sale prices was \$192.22 psf. The Complainant submitted that the best comparables were located at 213 4851 Westwinds DR NE and 2 5700 Falsbridge DR NE and they were sold for \$232.14 psf and \$332.98 psf, respectively.

[16] The Complainant requested that all 5 sales comparables be considered and that the unit rate of \$200.00 psf be applied to the subject properties, for assessment purposes.

Respondent's Position:

[17] The Respondent's Disclosure is labelled R-1.

[18] The Respondent submitted that the Complainant's sale comparable at #19A 1915 32 Ave NE is undervalued as reported. As evidenced on page 36, \$200,000 in repairs were required after the sale to bring the property up to a comparable standard.

[19] The Respondent submitted that the Complainant's sale comparable at #1 1915 32 Ave NE should be excluded from the analysis as the sale was financed through a "take back" mortgage. The purchaser indicated on page 32 that financing played a part in the sales price and the seller provided the mortgage.

[20] The Respondent submitted that the Complainant's sale comparable at #213 4851 Westwinds DR NE should be excluded from the analysis as it was not at "arms length". A corporate search, at pages 53 through 58, revealed that the last name of the purchaser and the seller were the same.

[21] The Respondent, at page 66, submitted that removing the two sales from the analysis results in an average sale price of \$234 psf for the remaining 3 sales. Further, removing the 2 sales from the analysis and increasing the value of the sale at #19A 1915 32 Ave NE, results in an average sale price of \$265 psf.

[22] The Respondent, at page 66, provided details of 5 additional sales in the period January 5, 2010 to November 18, 2011, noting the sale prices ranged from \$242 to \$303 psf with an average sale price of \$257 psf.

[23] The Respondent, at page 66, combined the results from 3 of the Complainant's sales and 5 of its sales, noting the "all comparables" average sale price is \$249 psf, which supports the assessed unit rate of \$250 psf.

Board's Reasons for Decision:

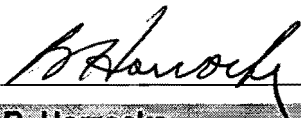
[24] The Board finds the Complainant's sale at #1 1915 32 AVE NE should not be considered in the analysis because there are outstanding questions as to whether the sale price was impacted as a result of the vendor providing the mortgage.

[25] The Board finds the Complainant's sale at #213 4851 Westwinds DR NE should be considered in the analysis. A sale transacted between related parties is not a valid transaction for assessment purposes. Here the vendor and the purchaser with the same last name raises suspicion, but is not conclusive, that they are related.

[26] The Board finds, when the sales comparables from the Respondent and the Complainant are considered together, the average sale price is \$242 psf and the median sale price is \$244 psf, which supports the assessed rate of \$250 psf.

[27] The unit rate to be applied, for assessment purposes, is \$250 psf.

DATED AT THE CITY OF CALGARY THIS 14th DAY OF November 2013.



B. Horrocks

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 Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Strip Plaza (unit ownership)	Sales Comparison Approach	Unit rate