

**CITY OF LETHBRIDGE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB – 0203-0008/2010

IN THE MATTER OF A COMPLAINT filed with the City of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Altus Group Ltd. - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

Tom Hudson, Presiding Officer

William LeLievre, ARB Member

Kent Perry, ARB Member

A hearing was held on Tuesday, September 7, 2010 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessments of the following property tax roll numbers:

Roll No./ Property Identifier	Assessed value	Owner
1-0-485-1603-0001 6092JK;1;1 1603 Scenic Hts S	2,579,900	IMMO
1-0-485-1607-0001 6092JK;1;2 1607 Scenic Hts S	2,703,400	IMMO
1-0-485-1611-0001 6092JK;1;3 1611 Scenic Hts S	2,494,700	IMMO
1-0-485-1615-0001 6092JK;1;4 1615 Scenic Hts S	2,494,700	IMMO
1-1-320-2201-0001 7510588;3;2 2201 32 Street S	4,890,600	Kanco Cumberland Towers
1-2-230-3210-0001 7610231;4;1 3210 23 Avenue S	3,038,100	IMMO

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1-2-230-3310-0001 7810559;4;2 3310 23 Avenue S	2,834,300	IMMO
2-0-075-0037-0001 7410379;1;72 37 Berkeley Place W	11,628,800	IMMO
2-0-140-0175-0001 7510445;7;3 175 Columbia Blvd W	4,945,000	IMMO
2-0-140-0600-0001 8211039;31;85 600 Columbia Blvd W	7,113,600	IMMO
4-0-420-0256-0001 5394JK;2;10 256 Mayor Magrath Dr N	2,502,100	IMMO
4-2-150-2014-0001 75LK;2;9 2014 15 Avenue N	2,358,900	IMMO
4-2-230-1304-0001 8710811;8;56 1304 23 Avenue N	2,772,600	IMMO
4-2-230-1306-0001 8710811;8;55 1306 23 Avenue N	2,772,600	IMMO
4-2-230-1308-0001 8710811;8;58 1308 23 Avenue N	2,772,600	IMMO
4-2-230-1310-0001 8710811;8;57 1310 23 Avenue N	2,485,400	IMMO

Appeared on behalf of the Complainant:

- Brendan Neeson - Altus Group Ltd

Appeared on behalf of the Respondent:

- Eloise Comrie

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PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject properties are all multi-residential apartment complexes of greater than six (6) units. There are a total of fifteen (15) complexes under one ownership (i.e. Transglobe) and one (1) complex owned by Kanco. The complexes include a mix of bachelor, one, two and three bedroom apartments, with the largest at 111 units and the smallest at 24 units.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make this decision under Part 11 of the MGA. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, based on the issues/grounds for complaint outlined in the submission of the Complainant as listed below. However, the Board determined through questioning of the parties, that the only outstanding issue is a requested adjustment to the assessed expense ratio to 40% of revenue from 35%. If the request is granted, the Complainant has submitted a reduced assessment request for each of the subject properties, which they contend would reflect a more reasonable estimate of both market value and equity with similar properties.

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|----------|--|
| Issue 1: | The assessed CAP rate of 6% applied to the subject property is not equitable and is in excess of market value as per the sales analysis of investment properties. It should be 6.5% |
| Issue 2: | The assessed expense ratio of 35% for the subject property is not Market value as per the analysis of rent rolls of both the subject property and other similar properties. An expense ratio of 40% should be applied. |
| Issue 3: | The assessed rate per unit applied to the subject properties should be (this amount changes in the 16 properties) |
| Issue 4: | This Notice is filed based on information contained in the Assessment Notice as well as preliminary observations and information from other sources. Therefore the requested assessment is preliminary in nature and may change. |
| Issue 5: | The assessment of the subject property is in excess of its market value for assessment purposes. |
| Issue 6: | The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties. |
| Issue 7: | The information requested from the municipality pursuant to Section 299 or 300 of the Municipal Government Act was not provided. |

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PART C: ISSUES

The CARB considered the Complaint forms together with the representations and materials presented by the parties. The matters or issues raised on the complaint forms included only the assessment amount and the assessment class.

However, as of the date of this hearing, only the assessment amount remained in dispute.

ISSUE 1: ASSESSMENT AMOUNT

As previously noted, the specific, and only sub issue in dispute, is the matter of the expense ratio used by the assessor in preparing the income approach to value assessment amount for each of the subject properties. A change to 40% of revenue from the 35% used by the assessor would result in a reduced assessment amount for each of the properties under Complaint.

Complainant's Position

The Complainant introduced evidence concerning the sale of four (4) apartment complexes similar to the subjects. The sales documents indicate that in each case, the expense ratio was in the range of 39.63 to 49.18 % of revenue. The sale that occurred in Lethbridge in January 2009 showed an expense ratio of 44.43%. The other sales occurred in 2006 and 2007. The Complainant also introduced evidence that an expense ratio of 40% was applied to the subject properties in the preparation of the 2009 assessments, and suggested that there is no evidence that market conditions were better in 2010. The Complainant also submitted actual income statements and rent rolls for the period ending December 31, 2009 for each of the subject properties under complaint. The expense ratios ranged from a high of 42% to a low of 29% with an average of 35.81%. However, the Complainant pointed out that this information was not available to the Respondent Assessor during the preparation of the assessments; because the property owners did not receive the Annual Request for Information (ARFI). It was also noted that the matter of the nonreceipt of the ARFI had been the subject of a Jurisdictional CARB complaint by the City of Lethbridge. The City sought to have the current complaints dismissed for noncompliance with Section 295(1) of the MGA. However, the Jurisdictional CARB ruled that the current complaints would proceed to Merit Hearing. The Complainant also submitted evidence respecting similar properties to the subjects, but located in Calgary, Red Deer, Grande Prairie, Banff and Lloydminster.

In all cases, where the income expense ratio was used in preparing income approach values for the assessments, the ratio was a minimum of 40%.

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Respondent's Position

The Respondent explained the process by which annual assessments are prepared by the City of Lethbridge. The analysis of the rent and expenses of the subject properties using the information provided by the Complainant shows, when taken together with all the other ARFI returns, that the median expense ratio for multi - residential properties in Lethbridge is 34.86%, for purposes of preparing the 2010 assessments. The expense ratios submitted from other Alberta municipalities are not comparable to the Lethbridge market. The Respondent submitted evidence in support of the process of adjusting the annual assessments based on local market indicators and conditions. For example, the expense ratios submitted by property owners are normally adjusted to reflect typical values in the mass appraisal process required by the MGA, unless of course atypical conditions exist. There is no evidence before the CARB that any of the subject properties are atypical in any way. The Respondent suggested that because the subject properties are typical in the Lethbridge market, it is therefore both reasonable and equitable to use typical factors in preparing the 2010 assessments, including an expense ratio of 35%. Considering none of the other factors such as rent rate or CAP rate are in dispute, the assessments of the subject properties should be confirmed.

CARB Finding on the Expense Ratio Issue

The CARB finds that the local Lethbridge market evidence from both parties support the use of a 35% expense ratio factor in the preparation of the 2010 assessments for typical multi-residential properties of greater than six(6) units. As there is no evidence that the subject properties under complaint are atypical in the Lethbridge market; the 35% expense ratio is accepted. The CARB placed little weight on the sales evidence of the Complainant due to the lack of detail with respect to a breakdown of the expenses associated with the expense ratios reported. Further, the evidence from other Alberta locations submitted by the Complainant, was also given little weight, given the local market evidence available. Finally, the CARB suggests that the Respondent consider taking steps to improve the rate of return of the ARFI in the interest of analyzing the Lethbridge market with the most up to date information that should be made available. The new Act and amended Regulations governing the assessment review process make it clear, that improvement in the timely sharing of current and accurate information is in the interest of both property owners and assessment authorities.

PART D: FINAL DISPOSITION OF COMPLAINT

The complaints are denied and the assessments are confirmed as follows:

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It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this 5th day of October, 2010.



Presiding Officer

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APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE LARB:

NO. ITEM

1. Exhibit A1 – Altus Group Ltd, Submission(s)
2. Exhibit B2 – City of Lethbridge Submission(s)

APPENDIX 'B'

ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

- | | |
|-----------------------|------------------------------|
| 1. Ms. Eloise Comrie | City of Lethbridge Appraiser |
| 2. Mr. Brendan Neeson | Complainant |