



Complaint ID 0262 1773
Roll No. 30003311600

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: JULY 24, 2023

PRESIDING OFFICER: MARK OBERG
BOARD MEMBER: AL GAMBLE
BOARD MEMBER: DON WIELINGA

BETWEEN:

ALTUS GROUP LIMITED

Complainant

-and-

REVENUE & ASSESSMENT SERVICES
For The City Of Red Deer

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBER: 30003311600

MUNICIPAL ADDRESS: 8071-50th AVE.

ASSESSMENT AMOUNT: \$2,589,400

The complaint was heard by the Composite Assessment Review Board on the Twenty-Sixth Day of July 2023, via video conference.

Appeared on behalf of the Complainant: Stefan Roth, and Brett Robinson, Altus Group Limited

Appeared on behalf of the Respondent: Del Stebner and Tyler Johnson, City of Red Deer

DECISION: The assessed value of the subject property is confirmed.

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 455 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”].

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property (“subject”) is a small box retail store on 1.53 acres of land. The building size is 25,000 square feet (“PSF”) which produces a site coverage of 37%. The building was constructed in 1992. It is described as a small box freestanding structure three range property. The subject which is in dispute was assessed at \$2,589,400 on July 1, 2022, using the Income Approach.
- [3] There was no change to the subject on the Condition Date of December 31, 2022.
- [4] The subject is located at the north end of Gaetz Ave. on the east side of Gaetz Ave.

PRELIMINARY MATTERS

- [5] The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [6] Neither party raised any objection to the panel hearing the complaint.
- [7] The Respondent raised an issue with the Complainant’s rebuttal evidence. The Respondent stated they believe the rebuttal package fails to rebut the Complainant’s position; noting that there was no commentary to dispute, or contradictory evidence contained in the rebuttal package.
- [8] The Board reviewed the Matters Relating to Assessment Complaints Regulation, AR 201/2017 (MRAC) section 9(2) (c) which states:

(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

- [9] The Board found the Complainant’s rebuttal contained photocopied pages of materials with highlighted sections as well as sections which had been circled in red. However, the Board did not find commentary about the issues of the hearing. In accordance with Section 9.2(c) of MRAC, the Board ruled that the evidence submitted by the Complainant must be excluded from the proceedings.
- [10] No additional preliminary or procedural matters were raised by any Party.

[11] Both Parties indicated that they were prepared to proceed with the complaints.

POSITION OF THE PARTIES

Position of the Complainant

[12] The position of the Complainant is that the current assessment of \$2,589,400, calculated using 103.58 PSF, of the subject property is neither fair nor equitable and requested an assessed value of \$1,625,000 at \$65.00 PSF.

[13] Although the original complaint filed included several reasons for the complaint, the only issue advanced by the Complainant during the hearing related to comparable properties. The Complainant's disclosure document (Exhibit C.1) contains a two-page document titled "ARB Grounds for Complaint". The document includes a "preliminary requested assessment" of \$1,600,000.

[14] Additionally, there are issues itemized that were not addressed in the remainder of the Complainant's disclosure document. These issues include a "vacancy allowance" should be no lower than 10% and the non-recoverable/reserve for replacement allowance should be no less than a combined 6%. Near the top of the first page is the following statement:

"This Complaint is filed based on information contained in the Assessment Notice as well as the preliminary observations and information from other sources. Therefore, the requested assessment is preliminary in nature and is subject to change as new information becomes available to the Complainant."

Sale of Neighboring Property

[15] In support of a reduction, the Complainant presented information on the sale of a neighboring property located at 4960-81 Street (complainant comparable #1), which sold for \$2,300,000 (\$65.00/PSF) on February 8, 2022. This included photos, maps, land title documents and a sales brochure.

[16] The information provided indicates the sale was influenced by financial hardship and there was liquidation of the property. The Complainant stated there was a public auction of this property and therefore it was a forced sale.

[17] The Complainant stated that the subject assessment of \$2,589,400 (\$103.58 PSF) is higher than market value when compared to the complainant's comparable (C.1 pages 10 and 11). The Complainant argued that the assessed rate should be no higher than \$65.00 PSF.

[18] The Complainant stated that the Respondent uses a system of ranking properties according to their relative quality/desirability, which can include such features as being close to a major thoroughfare. The range goes from 1 to 6, with 6 being the highest. As noted above, the subject is a small box store.

[19] The Complainant argued that the current assessment of \$2,589,400 at 103.58 PSF of the subject property is neither fair nor equitable and requested an assessment value of \$1,625,000 at \$65.00 PSF.

Position of the Respondent

- [20] The position of the Respondent is that the subject property assessment of 2022 is fair and equitable. The Respondent presented the sale of two comparable properties as follows:

Comparable	Location	Listing Price	Sale Price	PSF	Size	Type
Herc Equipment and Rentals	7899-Gaetz Ave.		\$1,850,000	\$154.80	11,951,00 sq ft	Retail Building
Phoenix Construction Building	7887-Gaetz Ave.	\$1,490,000		\$133.18	11,188 sq ft	Retail Building

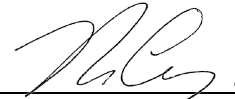
- [21] The Respondent stated that the comparables demonstrate that the market was trending upward at the valuation date. The Respondent argued that the values of the Comparables support the assessment of the subject.
- [22] The Respondent stated it verified the sale of the complainant's comparable #1 had been sold under circumstances of financial duress by the owner and does not reflect typical market conditions. In support of this, the Respondent shared a history of the subject's financial hardships; dating back to 2014 (R.1 pages 7-8).
- [23] The Respondent stated the Complainant was fully aware of the circumstances surrounding the sale of Complainant comparable #1 through public documents as well as the Board findings within the June 21, 2022 CARB decision, of which the Complainant was a Party. Excerpt: *"The Board accepts the Respondent's position on the post-facto JYSK sale as a "duress sale". There was an abundance of evidence that suggested the vendor was under considerable financial pressure on this property prior to and at the time of its sale. Therefore, the Board will give its cap rate little weight"*.
- [24] The Respondent argued the financial pressure leading to the sale of the complainant's comparable #1 has been confirmed as a "duress sale" by the June 21, 2022 CARB decision and standard internal processes of The City of Red Deer.
- [25] Further, the Respondent stated that the valuation of the complainant's comparable #1 was influenced by financial hardships and was not reflective of typical market conditions.
- [26] The Respondent stated that there should be a reasonable expectation that the responsibility of the Complainant is to undergo a full verification of all sales documents presented. The due diligence falls prior to the Complainant disclosing this sale as reliable evidence of a market transaction within their submission.

BOARD FINDINGS and DECISION

- [27] The Board carefully considered the evidence and argument of both parties in determining issues before the Board.
- [28] The Board finds that the issues itemized in the two-page document titled "ARB Grounds for Complaint" are not pertinent to the appeal of the subject's assessment because they were submitted prior to the Complainant having an opportunity to fully research the subject.
- [29] The Board found that the addendum titled Requested Assessment Value was helpful in showing the subject as assessed and the subject as requested (C1. P17).
- [30] The Board gave little weight to the verbal information provided by the Respondent for the purposes of "trending" and "testing the market". Given that this information is not used by the Respondent to calculate assessments, similarly, the Board finds that the information is not useful in determining an appropriate assessment for the subject.
- [31] There are two factors that the Board must consider to determine the value of a property: the sale must have been on the open market; and the sale must be made from a willing seller to a willing buyer, which would include that the sale must not have had undo influence, which would include a duress sale.
- [32] The Board reviewed both Party's evidence regarding the sale of the complainant's comparable #1. When reviewing the history of the financial hardships as presented by the Respondent whereby the accumulation of debts or personal financial crisis can lead to a forced sale. The purpose of this forced sale is to pay off debts accumulated by the owner. It was noted that the lender had begun foreclosure proceedings in October 2021 and the property was scheduled for a public auction shortly thereafter the lender paid the taxes owing shortly before the property was being set up for public auction.
- [33] Further, the Board accepts that the Respondent verified this transaction to have been sold under circumstances of financial duress by the owner and does not reflect typical market conditions. The Board puts significant weight on the financial hardships which the Respondent researched and documented.
- [34] The Respondent's presentation of two comparable properties supports the subject property is assessed fairly.
- [35] The Board concludes the Complainant has failed to provide any reliable evidence of comparable properties. The Board further concludes the Complainant has failed to meet the evidentiary duty to show that the current assessment is wrong, unreasonable, or inequitable.

DECISION SUMMARY

- [36] The Board confirms the original assessed value of \$2,589,400 of the subject property.
- [37] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 23rd day of August, 2023 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



Mark Oberg
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

<u>NO.</u>	<u>ITEM</u>
1. A.1	Hearing Materials provided by Clerk – 2 pages
2. A.2	Hearing Exhibit Listing – 2 pages
3. C.1	Complainant Submission – 178 pages
4. R.1	Respondent Submission – 78 pages
5. R.2	Respondent Submission – Law Brief – 66 pages