

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Altus Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

F.Wesseling, PRESIDING OFFICER

T. Usselman, MEMBER

D. Cochrane, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of Property/Business assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 414001008

LOCATION ADDRESS: 11575 - 14 Street NE

HEARING NUMBER: 59144

ASSESSMENT: \$5,660,000

This complaint was heard on 29th day of June, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *G. Worsley*

Appeared on behalf of the Respondent:

- *K. Haut*

Property Description: Property is located in NE Calgary in an area called Stoney 1, an industrial estate. Subject property is located along 14 Street NE in close proximity to Country Hills Boulevard and Stoney Trail. The property contains a storage facility, a mobile home, a number of sheds and quonset type buildings on the east end of the parcel consisting of approximately 12 acres. The balance of the lands slopes toward the Nose Hill Creek to the West and is undeveloped and utilized for agricultural purposes. The parcel, in total, contains 71.56 acres. Subject lands were reclassified in September of 2009 from UR (Urban Reserve) and DC (Direct Control) to S-FUD (Special Purpose-Future Urban Development) and DC (Direct Control).

Issues: Pursuant to Section 460 of the MGA and Schedule 1 of Alberta regulation 310/2009 the complainant has identified the following issues for adjudication by the Board:

1. Assessment is incorrect and inequitable as subject lands are assessed in excess of market value and is primarily used for agricultural purposes.
2. Equity with adjacent properties.

The respondent requested that the assessment be increased to \$8,263,972 in order to correct a past error.

Complainant's Requested Value: \$2,690,000

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

Complainant's position: Information was provided that 59 acres of the site is used for agricultural purposes, the occasional grazing of cattle. The balance of the land (12 acres) is used for storage and residential purposes. A lease agreement and the Assessment Request for Information document was provided in support. Current assessment is based on 51 acres for farmland and the balance is assessed at non-residential and residential rates. The assessment base rate was questioned as well as how the escarpment below the storage is treated and adjusted for. Equity issues with adjacent properties were also raised. In 2010, a small portion of the agricultural area was used for storage however this was temporary and has since been removed. No such storage took place in 2009.

Respondent's position: A request was made that the assessment be increased as less of the land is used for farm purposes and more for storage. The City requested that the acreage for the storage facility be amended to 30 acres and assessed as such. In support of the request a submission was

made of photographs showing container bins being stored on the agricultural land. These photographs were taken in June 2010. There was no indication that storage took place on the agricultural portion of the land on permanent basis which would require a development permit. Comparable sales data were provided that support the current assessment. In addition, an affidavit, signed by the owner, was provided which outlined the value consideration for the land and supports the assessment arrived at by the City

Board's Decision: Upon receiving the verbal and written evidence provided by the parties regarding the issues raised, the Board found that the complainant failed to make substantial argument to reduce the assessment. Further the Board found that the Respondents request to increase the assessment was unwarranted. The assessment therefore is confirmed at \$5,660,000.

Reasons For The Decision: No convincing evidence was provided to the Board by the complainant. The respondent's evidence (photographs, sales data and affidavit) was more compelling. The Board was not convinced by the respondent's argument to correct a past error as little background information was provided.

DATED AT THE CITY OF CALGARY THIS 20th DAY OF July 2010.


F. Wesseling
Presiding Officer

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.*