

**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(4).

between:

Altus Group Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

Don Steele, MEMBER

Ike Zacharopoulos, MEMBER

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

ROLL NUMBER:	054009709
LOCATION ADDRESS:	615 -- 36 Street N.E.
HEARING NUMBER:	56308
ASSESSMENT:	\$6,010,000

This complaint was heard on 6 day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- Altus Group Limited – D, Chabot

Appeared on behalf of the Respondent:

- City of Calgary – S. Turner, Assessor

Property Description and Background:

The subject property is a car dealership situated on a 221,065 sq. ft parcel of land located at 615 – 36 Street N.E. The assessment is \$6,010,000 for 2010 based on a land rate of 22.95 per sq. ft. or \$1,000,000 per acre plus a corner influence of %5 and a value of \$681,889 for the improvements. The Complainant indicated that the primary issue before the CARB for this complaint and four other properties is the land rate used for the 2010 assessment of \$1,000,000 per acre. Both parties indicated that for the most part they would be relying on the same evidence and argument for the other four complaints before the CARB where the issues are similar. Therefore the CARB reasoning and decisions will also be similar and this decision will be referenced by the decisions regarding the other complaints.

Issues:

1. Is the subject property assessed in excess of its market value as of July 1, 2009 as a result of the value attached to the land component being over market.

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

1. The assessment for the subject property's land value has been reduced to \$4,258,800 for 2010 based on a land rate of \$800,000 per acre plus a 5% corner adjustment.

Issues and Findings

Market Value of the Land

The Complainant explained that the Assessor has used a land rate of \$24.10 per sq. ft., including the 5% corner influence, to determine the 2010 assessment which is up 9.5% from the rate applied in 2009.

The Complainant argued that land values have not increased over the past year and in fact have declined. The Complainant brought forward information showing that the City of Calgary land assessments for properties in the northeast, beltline, downtown and along MacLeod Trail have all been reduced by approximately 15% for 2010 while the City has increased land values in the N.E. by a range of 9.5% to 27%. The Complainant also offered some evidence from Colliers International which they suggested shows a decline in values rather than an increase as suggested by the Respondent. The Complainant indicated that the Assessor had relied on one IB zoned land sale at 2021A – 100 Avenue N.E to support their assessment; however the subject is zoned IC which is more restrictive than is IB. This sale occurred July 20, 2007 and has been adjusted for time. The sale was for 16.26 acres however the Assessor has reduced the acreage to 8.48 acres to account for wetlands that are undevelopable. The Assessor further adjusts the sale value by -25% because the zoning has a direct control (DC) designation. The Complainant argues that the City is inconsistent as this -25% adjustment was not applied in a different context where the Assessor had used this sale in another hearing. The Complainant urged the CARB not to place weight on this sale for the following reasons. The land is over 16 acres not 8.48, it is IB not IC, it is time adjusted without support for that adjustment and it is adjusted for DC and this adjustment is not supported nor has the Assessor been consistent in making that adjustment.

The Complainant provided five sales of IB lands in the northwest and one sale of IC lands also in the northwest. The Complainant indicate that there has only been one sale of IC land in the City over the valuation year and therefore considerable weight should be accorded to this IC sale which occurred October 2009 at \$700,000 per acre. The IB sales produced a median of \$726,010 per acre however the Complainant argued that IB lands are more desirable permitting more floor area and more height. Based on this IC sale and the fact that the City has reduce land values in other areas of the City the Complainant recommended that the CARB reduce the land assessment for the subject property to \$700,000 per acre will result in an overall value of \$4,230,000.

The Respondent indicated that while their land analyst had reviewed other sales in arriving at the base land rate of \$1,000,000 per acre the sale at 2021A – 100 Avenue N.E. is indicative of the correct land value for the N.E. After appropriate adjustments this sale produces a value of \$24.77 per sq. ft. well above the \$1,000,000 per acre used to produce the assessment. The Adjustment for size is based on subtracting the wetlands that are not developable. The further 25% reduction for the DC designation is also important and is done in other similar case. The Respondent offered testimony that the sales used by the Complainant should all be adjusted for various influences such as shape, corner, utility corridor, DC land use access and so on. The Respondent also introduced a chart showing that seven other properties in the N.E. have been assessed at the same base land of approximately \$22.95 per sq. ft. as is the case with the subject. Based on this evidence the Respondent requested that the assessment of the subject be confirmed.

Findings and Reasons

The CARB considered the sales evidence brought forward by both parties. The sales offered by the Complainant were not in the N.E. and not in locations with the same exposure that the subject has along 36 Street N.E. These sales however provide a reasonable basis to establish a threshold of land value, albeit somewhat below the value the CARB concluded would be correct for the subject. The CARB could not place much weight on the arguments by the parties as to whether IB lands are of greater or lesser value than that of IC lands. There simply was insufficient market evidence on this point. The Respondent's single sale although located in the N.E. was determined not to be comparable to the subject. Firstly, the adjustment from 16.28 acres to 8.48 acres because of wetlands seems arbitrary and is not supported by market evidence.

Second, the wet area appears from the photographs to be a manmade pond and depending on the future development, which according to the Complainant may be a hotel; these lands could be of some considerable value. Finally, there was no support offered for the reduction of 25% for the DC land use designation and the Respondent has not been consistent in their application of this reduction. The CARB was therefore left with the Complainant's evidence which supported the lower end of the value range at approximately \$725,000 per acre. The CARB also considered the previous years assessed land value less the 15% reduction in land values in other areas of the City which was not refuted by the Respondent. This analysis provided a value of just over \$800,000 per acre. Given the Board's conclusion that the N.W sales may be somewhat below the appropriate value for the subject in the N.E. the CARB elected to apply a value of \$800,000 per acre as a base rate for the assessment of the subject and for the other properties where the same evidence and argument had been relied upon by the parties. This value has been adjusted by +5% where there is a corner influence.


Decision Summary

The assessment for the subject property's land value has been reduced to \$4,258,800 for 2010 and this value when combined with the assessed value for the improvement of \$681,889 results in a total value of \$4,940,000.

It is so ordered.

No costs to either party.

DATED AT THE CITY OF CALGARY THIS 3rd DAY OF August 2010.



Paul Petry
Presiding Officer

PP/kc

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.*