

**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:

L. Loven, PRESIDING OFFICER

D. Steele, MEMBER

T. Usselman, 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: 090042508
LOCATION ADDRESS: 4400 MacLeod Trail S.W.
HEARING NUMBER: 59987
ASSESSMENT: 6,920,000

This complaint was heard on the 20th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- C. Van Staden, representing the Altus Group Limited, on behalf of 1239466 Alberta Ltd.

Appeared on behalf of the Respondent:

- E. Daltorio, representing the City of Calgary

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

Both the Respondent and the Complainant confirmed to the Board that they had no procedural or jurisdictional matters to be raised.

Property Description:

The subject property consists of 1.87 acres of land known as the proposed Market at Silverado, located on east side of MacLeod Trail in the community of Manchester. The property is zoned C-COR3 – Commercial – Corridor 3. The total assessment is \$6,920,000.

Issues:

1. The assessed rate applied to the subject land should be lowered to reflect fairness and equity as set out in Section 293(1) of the *Municipal Government Act (the "Act")* and in accordance with *Bramalea v. Area Assessor #9 (City of Vancouver)*, with respect to:
 - a. sales (market information); and,
 - b. equity (similar surrounding properties).

Complainant's Requested Value: \$4,890,000

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

Issue 1a. Sales

The Complainant submitted sales information for eleven properties located on MacLeod Trail, including the subject property giving an average and median value of \$126.45 and \$69.82 per square foot, respectively. The Complainant further submitted that three of the best comparables, located at 6090, 7212 and 7337 MacLeod Trail, sold for \$110.40, \$64.48 and \$60.84 per square foot respectively, giving an average of \$78.57 and a median \$64.48 per square foot.

The Respondent submitted four Macleod Trail vacant land sales averaging \$102 per square foot, two duplicates sales for 8306 Horton Road SW and 5320 2 Street SW, and two other sales, all

averaging \$122 per square foot. The Respondent further provided ten Macleod Trail sales for 2008 - 2009 averaging \$90 per square foot. The Board notes that all of the Respondent's second set of sales comparables are improved properties, excepting for one on Horton Road that sold for \$100 per square foot. Additionally, the Respondent provided three improved sales listings on Macleod Trail at \$100, \$230 and \$220 per square foot.

Based on the evidence and argument presented above, the Board finds the value of the subject property to be in the range of \$65 to \$100 per square foot, and notes that assessed value rate is \$84.92 per square foot.

Issue 1.b. Equity

The Complainant submitted an Extended Assessment Summary Report noting the assessed value of the subject land at \$84.22 per square foot using the sales comparison approach. The Complainant further provided nine Assessment Summary Reports for improved properties located on Macleod Trail, only one, a 7 -Eleven, was valued using the cost approach and the balance using the income approach at \$44.33, \$45.56, \$60.23, \$42.34, \$72.09, \$55.95, \$32.87, \$47.68 and \$55.44 per square foot.

The Respondent provided fourteen Macleod Trail equity comparables, including the subject property, all assessed at \$85 per square foot. Approximately half or seven had negative influence adjustments ranging from 20% to 30%, one with a plus 5% upward adjustment. The adjusted rates ranged from \$60.00 to \$89.00 per square foot with an average of \$70.79 per square foot and median of \$85.00 per square foot.

Based on its consideration of the above evidence and agreement, the Board accepts that the assessed value of the comparables provided by the Complainant includes the value of the land plus the improvements; therefore, the Board finds the assessed value of land only located on Macleod Trail to be lower. Given a median of \$50.56 and mean of \$50.48 per square foot the assessed rate of the Complainant's comparable properties includes improvements and the Complainant's requested assessment on a per square foot basis is \$60.10 is for land only; then based on equity, the Board finds the Complainant's requested assessment rate to be reasonable.

Summary:

The valuation method applied in this instance is the Sales Comparison Approach. The use of this approach to value is contextually allowed in the legislation. The Complainant advanced argument, based on the decision of the Calgary Composite Assessment Review Board, CARB 0867/2010-P, supporting the value of bare land as the minimum value of any commercial property (located within a given geographic area) and applying the Income Approach should result in a higher value for any particular property located within that same geographic area. In this case, the converse appears to be true; that is, the assessed value of raw land appears to exceed that of income producing properties along Macleod Trail. This results in an inequity, caused in part from a failure to apply the highest and best use test.

When the Board convened to arrive at its decision, Mr. Steel was not available. The remaining two members of the panel, constituting a quorum as provided for under section 458(2) of the *Municipal Government Act* as follows:

458(2) The provincial member and one other member of a composite assessment review board referred to in section 453(1)(c)(i) constitutes a quorum of the composite assessment review board.

Board's Decision:

For the reasons set forth above, the assessment of the subject property is hereby adjusted as follows: 1.871 acres or 81,487 square feet at \$60.10 per square foot or \$4,897,368.70 truncated to \$4,890,000.

DATED AT THE CITY OF CALGARY THIS 12th DAY OF OCTOBER 2010.


L.R. LOVEN
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.*