

**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, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

J.P. Acker, PRESIDING OFFICER

Y. Nesry, MEMBER

D. Pollard, 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:	200685840
LOCATION ADDRESS:	4280 130 Avenue S.E.
HEARING NUMBER:	56401
ASSESSMENT:	\$ 209,500

This complaint was heard on the 23th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #9.

Appeared on behalf of the Complainant:

- *Mr. Andrew Izard*

Appeared on behalf of the Respondent:

- *Mr. Kelly Gardiner*

Property Description:

This .80 acre property is a remnant parcel remaining from construction of improvements to the Deerfoot access adjacent to the parcel. The owner of the balance of the quarter purchased the remnant from the Minister of Transportation and farms it as part of the larger agricultural unit. There is no legal or physical access to this remnant parcel, nor is it serviced.

Issues:

The assessed value is in excess of market value.

The use, quality and physical condition of the property was not reflected in the assessment.

The classification of the property is incorrect

Property details used for assessment purposes are incorrect

Complainant's Requested Value: \$ 750

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

The complainant provided documentation and photographic evidence demonstrating the site constraints regarding access, parcel shape and its use as a part of a larger agricultural unit. He testified that it is currently in use for hay production and that it is incorrectly assessed as vacant industrial land. This parcel was created by Alberta Transportation and Utilities when it was part of a land assembly for Deerfoot Trail Access ramp improvements. Following completion of the project, this remnant parcel was found to be in excess of the needs of the department. It was sold in June 2006 to the owner of the balance of the quarter section for \$121,000 and registered as a separate parcel of land.

The respondent indicated that industrial land valuation for assessment purposes is \$1,050,000 for the first acre and \$300,000 / acre for additional lands in any vacant parcel. This value was derived from analysis of comparable vacant land sales in the subject's market area. The complainant did not dispute this base land valuation. A reduction from this base value was applied to the subject for two criteria: (1) A 25% reduction for limited access and use; and (2) a 50% reduction for no services to the parcel. The complainant requested an additional 25% reduction for the unusual shape of the parcel and a further 25% for the fact that it is a residual parcel.

The respondent argued that the city never gives a reduction in excess of 75% for site attributes as all land has value and arbitrary reductions in excess of 75% would not reflect any relation to market value.

The complainant indicated that the lands are in use for agricultural production. The respondent indicated that the city requires notice from a property owner of a change in use to agriculture in order to properly classify property and that no attention was given in the absence of this notice to any classification other than vacant non-residential.

The board reviewed the MGA and regulations with regard to regulated farm land assessment and found that s 297(1) provides for only 4 classes of land for assessment purposes and that farm land is class 3. Section 4 defines farm land as land used for farming operations as defined in the regulations. Turning to the regulations, the board found that MRAT s(4)(1)(b) sets the valuation standard for a parcel of land used for farming operations as that of agricultural use value.

However, MRAT (4)(3) states "*Despite subsection (1)(b), the valuation standard for the following property is market value:*

(a) *A parcel of land containing less than one acre"*

Accordingly, the board finds that the subject parcel, at .8 ac does not meet the standard established in MRAT (4)(3)(a) for valuation under the regulated farm land assessment scheme.

The board also recognizes that the subject parcel could not be registered with land titles as it is currently configured – except under the unusual circumstances of its creation as a remnant of Alberta Transportation and Utilities project work – and it therefore is somewhat unique.

Board's Decision:

The board considered the evidence and testimony of the parties and determined that the subject's market value would be very difficult to assess insofar as it has no legal or physical access, is of irregular shape and is unserviced. It does not qualify under the regulations for treatment as an agricultural unit. In its current state, given the access and servicing issues, it is undevelopable.

The subject is, however, owned by the same property owner as the balance of the quarter section and is farmed as a unit of that larger entity. Under normal circumstances, the subject parcel would have been consolidated back into the quarter section at the time of sale from Alberta Transportation and Utilities.

The board finds it equitable, therefore, to view the subject .8 acre parcel as a functional component of the larger adjacent unit under the same ownership as the subject. From this view, the subject should attract a base assessment value of \$300,000 per acre rather than \$1,050,000. Its location and servicing would still entitle it to the same 75% reduction as it currently enjoys for no servicing and no access.

The calculation would therefore be $(.8 \text{ ac} \times \$300,000) \times .25 = \$60,000$

The assessment is reduced to \$60,000. It is so ordered.

DATED AT THE CITY OF CALGARY THIS 27th DAY OF August, 2010.


J. P. Acker
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.*