

**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 Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, T. Golden
Board Member, R. Deschaine
Board Member, K. Farn***

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: 129178208

LOCATION ADDRESS: 10506 Southport Rd. SW

HEARING NUMBER: 59215

ASSESSMENT: \$1,730,000.00

This complaint was heard on 17 day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- A. Izard

Appeared on behalf of the Respondent:

- E. Daltorio

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

There were no preliminary matters.

Property Description:

The subject property is a freestanding gas bar located on .55 acres of land and has roadways on all sides. The structures were built in 1989 and are related to the Superstore across a street to the east. A cost approach was used to establish the assessment on the subject.

Issues:

1. The main issue to be considered by the Board is the equity of the assessment as compared to similar uses. A secondary issue is whether the cost approach to assessment is the appropriate method to be used to determine an equitable assessment.
2. If the cost approach is the appropriate method to be used for developing the assessment, then which factors are appropriate to use in the calculation?

Complainant's Requested Value:

Based on an income approach the complainant requests the assessment to be \$530,000.00

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

- 1) The assessment is not equitable when compared to similar uses. Using the cost approach to assessment, as has been used by the Respondent yields an inequitable assessment of the subject property. An income approach has been used by the Respondent in other similar properties and is applicable in this case. A reduction in assessment is warranted.

The Complainant disputed the depreciation factor used by the Respondent to calculate the cost approach but focused more on the equity argument by presenting a series of similar gas bars. Each comparable was a similar use with the main difference being that the comparables were deemed by the Respondent to be closely related to a larger commercial use. For example a Canadian Tire gas bar adjacent to the store or a similar Safeway gas bar located in the parking area of the grocery

store. In these cases an income approach was used to calculate the assessment. Also in each case the assessment was considerably lower than the assessment on the subject. The Complainant cast doubt on the comparables used by the Respondent to support the assessment especially the property on Horton road and the Beltline.

The Respondent discussed the policy of assessing gas bars differently depending on the relationship with a larger store or freestanding operations. A land sale on Horton Rd. and some Beltline sales were given weight when developing a land value for the cost approach.

The board agrees with the Complainant that the assessment is inequitable and should be assessed using the income approach. There are many examples of other similar gas bars assessed using the income approach and receiving a considerably lower assessment. In addition the comparables that the Respondent used to develop and support the assessment were questionable and given little weight by the Board.

- 2) The factors to be used in the income approach should be the same as those applied to other similar facilities in the City.

The complainant provided a series of comparables that had been assessed on the income approach using a series of inputs developed by the City in other cases including:

- PGI \$45,000.00
- vacancy 4%
- non recoverable 1%
- cap rate 8.00%

Applying these values the result is the requested assessment of \$530,000.00. These values were not disputed and were therefore accepted as reasonable in this case.

Board's Decision:

The assessment is set at \$530,000.00

DATED AT THE CITY OF CALGARY THIS 19 DAY OF October 2010.



Tom Golden
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

NO.	ITEM
1.	Exhibit C-1 Letter of Complaint
2.	Exhibit C-2 Complainants Evidence Brief
3.	Exhibit C-3 Complainants Rebuttal Submission
4.	Exhibit C-4 Submission of ARB decision 1358/2010-P
5.	Exhibit C-5 Submission of ARB decision 1356/2010-P
6.	Exhibit R-1 Respondent's Assessment Brief

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.*