

**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 Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

A. Blake, MEMBER

K. Farn, MEMBER

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

ROLL NUMBER:	080200603
LOCATION ADDRESS:	524 ELBOW DR SW
HEARING NUMBER:	59192
ASSESSMENT:	\$15,690,000

This complaint was heard on the 1st day of December, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1

Appeared on behalf of the Complainant:

- Mr. K. Fong (Altus Group Ltd.)
- Mr. A. Izard (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- Mr. D. Grandbois

Others

Mr. R. Koudys

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

None. The merit hearing proceeded.

Property Description:

The subject property is a 1.60 acre parcel located in the Cliff Bungalow community in SW Calgary. The site contains a 24,569 sq. ft. building occupied by Canada Safeway. The building was constructed in 1971 and is considered to be of D quality.

Issues:

The Assessment Review Board Complaint form contained 16 Grounds for Appeal. At the outset of the hearing, the Complainant advised there were 2 issues outstanding, namely: the characteristics and physical condition of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, mgmnt, non recoverables and cap rates, and the highest and best use of the subject as vacant land does not meet the test of financially feasible, maximally productive, physically possible and legally permissible. The City's conclusion is erroneous.

Complainant's Requested Value: \$3,980,000

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

Issue Use of the Land Value versus the Income Approach

The Complainant submitted Evidence Submission labelled C-1.

The complainant advised that the subject property is currently being operated as a grocery store and as such it should be assessed utilizing the Income Approach. He further advised utilizing the Income Approach with the standard parameters for retail in this area, would yield a market value of \$3,989,136.

He argued, that this site would be difficult to rezone as it is in the Mission district which has very restrictive zoning, there may be environmental considerations as the site is within the Elbow River flood plain and the economic downturn has led to a number of projects in the vicinity being halted in the early stages of construction. He concluded the site could be considered a "holding" property.

The respondent submitted Assessment Brief labelled R-1.

The Respondent acknowledged that the subject property is improved and that those improvements generate income, however, the income generated is not sufficient to create a value higher than the estimated bare land value. He further advised that the treatment of this property has been consistent over the past number of years and supported by decisions of other Boards.

The Board finds the improvements to the property are of such an age or design or other influence that the property is incapable of producing a capitalized income value that exceeds the established land value. It is therefore appropriate to use the land value as the market value of the property.

Issue Land Value

The Complainant, at page 134, provided Beltline Land Value Information which contained 13 purported sales for the period March 07 thru September 09. He noted that the median of the raw sales data was \$179 / sq. ft. for land within the Beltline. He argued that the value of the subject property should be reduced by 20% because it is within the floodplain which would suggest a market value of \$143 / sq. ft. He concluded that he only advanced this argument to demonstrate that the land value utilized by the City (\$225 / sq. ft.) was excessive. His requested assessment equates to a land value of \$57 / sq. ft.

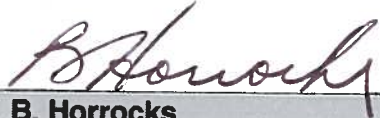
The Respondent, at page 27, provided 2010 Beltline Commercial Land (CC-X, CC-COR) Sales. He noted that 3 of the sales had been adjusted by 5% because they were corner lots and that all of the sales were treated as raw land even though some had modest improvements on site. He pointed out that the median sale price was \$221 / sq. ft. versus the assessed Land Rate of \$215 / sq. ft. for the subject and further that the post facto sale of 633 10 AVE SW at \$211 / sq. ft. was a further indication that the assessment was correct.

The Board noted the wide disparity between the assessed value (\$15,690,000) and the requested assessment (\$3,980,000) and chose to review the land sales data provided by both parties in more detail. The Board selected 4 sales from the Complainant (123 12 AV SE, 105 10 AV SE, 905 12 AV SW, and 917 10 AV SW) plus 2 sales from the Respondent (214 11 AV SW, and 739/731 10 AV SW) as valid market indicators. It was noted that the sales were not time adjusted and the properties were all smaller than the subject. The weighted average of the 6 selected sales was calculated to be \$170.00 / sq. ft. and by extension the market value of the subject was calculated as \$11,822,480.

Board's Decision:

The 2010 assessment is reduced to \$11,820,000.

DATED AT THE CITY OF CALGARY THIS 9th DAY OF DECEMBER 2010.



B. Horrocks
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.*