

**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:

S. Barry, PRESIDING OFFICER

J. O'Hearn, MEMBER

P. Pask, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board (CARB) 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:	200774768
LOCATION ADDRESS:	285 St. Moritz Dr. S.W., Calgary, Ab.
HEARING NUMBER:	59830
ASSESSMENT:	\$3,170,000

This complaint was heard on the 10th day of December, 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:

- B. Neeson, Altus Group Ltd.

Appeared on behalf of the Respondent:

- E. D'Altorio, City of Calgary

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

The Complainant advised the Board that the Composite Assessment Review Board record does not show receipt of the Respondent's disclosure document. Nevertheless, the Complainant did receive it and had no objection to the Board giving consideration to it.

Property Description:

The property under complaint is a vacant commercial parcel of 2.18 acres (95,048 sq.ft.) with a land use classification of Direct Control (DC) 15Z2005, Commercial-Neighbourhood 1 (CN-1). It is located in the community of Springbank Hill.

Issues:

The Complaint Form lists a number of grounds for appeal. At the time of the hearing, the Complainant advised that the only issue was market value, not equity.

Complainant's Requested Value:

The Complaint Form requests an assessment of \$2,000,000. This was adjusted in the Complainant's Disclosure Brief to \$1,800,000.

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

The Complainant notes that the subject parcel was included in the City's review of C-N1, C-N2 and C-N3 parcels to derive typical rates for that stratified group. There is no evidence, the Complainant says, in the Respondent's Disclosure Brief, to justify that stratification. In other words, there is nothing to show that these three land use classifications are properly grouped together and, therefore, that the rates applied are appropriate to the subject parcel.

The Respondent showed that the land is assessed in accordance with its commercial rates for C-N1, C-N2 and C-N3 lands, whereby the first 20,000 sq.ft. are assessed at \$76 per square foot (sq.ft.) and the remainder at \$20 per sq.ft. These rates were derived from a review of comparable sales. A 5 per cent upward adjustment was made on the assessment for the subject site for corner lot influences. The three detailed comparables provided by the Respondent are all for C-N2 lands.

The subject parcel was previously sold in November, 2007 for \$2,200,000. The Respondent does not dispute the validity of the sale for comparison purposes but notes that there was a pending development permit on the site at the time of sale. This was not argued to be detrimental to the value of the property.

At the time of the sale, the land use designation was C-1A which, the Complainant states, is very similar in uses to C-N1. In fact, the copy of the relevant DC Bylaw, site specific to the subject parcel, states that the "Permitted and Discretionary Uses of the C-1A" bylaw "shall be the Permitted and Discretionary Uses" in the DC-C-N1 bylaw. This sale was also used by the Respondent in preparing the stratification rates and appears to be the only C-N1 sale; the others are CN-2. The Complainant applied the City's time adjustment sales price (TASP) factors to arrive at a July 1, 2009 market value of \$2,552,000. The Complainant then introduced other C-1A comparables to support a lower assessment based on per acre, time-adjusted sales. However, these sales occurred in 2006 and the Complainant again used the City's TASP factors which only cover the period from July 1, 2007 through to June 30, 2009. The time adjusted values for these other comparables have not, therefore, been proven to be correct and do not support the revised requested assessment of \$1,800,000.

While the Respondent argued that one sale does not meet the test for the mass appraisal approach to market value, neither Party demonstrated that the uses and densities or other land use characteristics of C-N1 districts are similar or dissimilar to C-N2 or C-N3 districts. This argument was raised by the Complainant to justify looking at the value of C-N1 lands separately from the City's stratification and for relying on the recent sale of the subject property to determine market value.

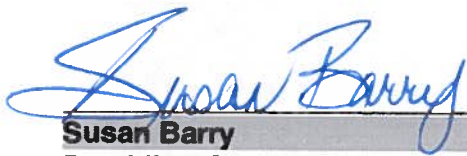
Further, the Complainant cites an Alberta Court of Queen's Bench decision: *697604 Alberta Ltd. v. Calgary (City of)*, 2005 ABQB 512. This decision supports using a recent sale of the subject property to determine market value. The arguments are not repeated here but they reference the definition in the MGA of market value being the amount that might be realized on the open market where there is a willing seller and a willing buyer. The sale of the subject property certainly meets that definition and, although the sale is not "recent" to the valuation date, it does have the benefit of City-approved factors that are designed to bring the sales price to the valuation date.

The Board supports the time adjusted sales price as evidence of market value and, truncated, changes the assessment to \$2,550,000.

Board's Decision:

The 2010 assessment is changed to \$2,550,000.

DATED AT THE CITY OF CALGARY THIS 16th DAY OF DECEMBER 2010.



Susan Barry
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:****NO. ITEM**

1. Complaint Form for Roll #: 200774768
2. Complainant's Assessment Brief
3. 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.*