

**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), Revised Statutes of Alberta 2000 (the Act).

between:

Altus Group Inc., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***T. Hudson, PRESIDING OFFICER
A. Blake, MEMBER
A. Zindler, MEMBER***

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

ROLL NUMBER:	200613917
LOCATION ADDRESS:	600, 4915 - 130 AVE SE
HEARING NUMBER:	60468
ASSESSMENT:	\$2,720,000.00

This complaint was heard on 14th day of March, 2011 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:

Mr. A. Izard (Agent, Altus Group Ltd.)
Mr. B. Neeson (Agent, Altus Group Ltd.)

Appeared on behalf of the Respondent:

Mr. I. McDermott (Assessor, City of Calgary)

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

The Composite Assessment Review Board (CARB) questioned whether the Municipal Government Act (MGA) allows the Municipality to issue an Amended Property Assessment for a property even in the absence of any physical or other changes, since the valuation date.

The Respondent indicated that the original Assessment for the subject property was prepared in error using the income approach to value method. The Respondent suggested that because the income approach to value does not capture the full fee simple estate value of the subject property, it is appropriate to amend the Assessment using the cost approach to value. The Respondent noted that the MGA provides for this in Section 305(1) and Section 312.

The Complainant argued that there is no justification for the large increase in assessed value for the subject property identified by the Amended Assessment. However, the Complainant also conceded that the MGA Section 305(1) allows the Respondent to “correct” the assessment roll through the process of amending assessments.

Upon review the CARB determined that the Respondent had complied with requirements of the MGA and that the complaint hearing would proceed.

Property Description:

The subject property is a combination gas bar and convenience store building, approximately 1000 square feet in size, developed on a 1.06 acre site. The property is owned and operated by Canada Safeway Ltd., in conjunction with their adjacent grocery store property. Both of these properties are located within the power centre retail shopping centre complex known as South Trail Crossing.

The Amended Assessment of \$2,720,000 for the subject property was issued in November of 2010. The Original Assessment of \$582,000 was issued in January of 2010. The Complainant requests that the Amended assessment be rejected, and that the Original assessment be confirmed.

Complainant’s Requested Value: \$582,000.

Issues:

Although the Complainant listed several" issues/grounds for appeal" in their submission, The CARB has determined that the central issue is the equity of the Amended Assessment amount for the subject property, when compared with the assessments of similar properties in the same market area.

Overview of the Equity Issue:

The evidence illustrates that the subject property has been consistently assessed using the income approach to value since 2007. This approach has also been used to prepare the assessments of two (2) similar gas store convenience store properties, operated by the Real Canadian Superstore and the Calgary Co-op; properties which are located very close to the subject, and within the South Trail Crossing Power Centre.

The Complainant argues that the decision of the Respondent to amend the assessment of the subject property based on the cost approach to value, while at the same time maintaining the assessments of the similar and competing properties in the same market area, results in a grossly inequitable assessment for the subject property.

The Respondent argues that the subject property differs from the comparables, because it occupies a separate parcel of land, and that the cost approach to value captures the full fee simple estate value of the property, which is required by the MGA Section 293 (1) and Alberta Regulation 220/2004 (MRAT) Section 2 (b).

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

The CARB concurs with the Complainant that applying the cost approach to value assessment to the subject property, while maintaining the income approach to value assessment for similar properties in the same market area results in an inequitable assessment for the subject property. Alberta Regulation 220/2004 Section 2(c) makes this very clear.

Although the Respondent is free to use the cost approach to value to prepare an estimate of market value; the resulting value must also "reflect typical market conditions for properties similar to that property". The Amended Assessment fails this test.

Board's Decision:

The Amended Assessment of \$2,720,000 is reduced to \$582,000**.

** It is noted here, that the factors used to calculate the income approach to value assessment (i.e. \$582,000) were not in dispute between the Parties. However, the CARB suggests that the size of the improvement on the subject property should be confirmed for future reference, due to the potential impact on the PGI used to prepare the assessment.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF APRIL 2011.



T. Hudson
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.*