

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

between:

Anwil Holdings Ltd. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
T. Usselman, MEMBER
R. Roy, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	035166701
LOCATION ADDRESS:	555 NORTHMOUNT DR NW
HEARING NUMBER:	63197
ASSESSMENT:	\$664,000

This complaint was heard on 10 day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *Mr. B. Neeson* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *Mr. S. Powell* *Assessor, City of Calgary*

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

There were no procedural or jurisdictional matters raised by the parties during the hearing.

Property Description:

The subject property is a free – standing retail building, known as “Coffee and Scream”, located in Cambrian Heights. The building is 3,020 sq. ft., constructed in 1969, and was assessed as C+ quality. It is situated on 0.24 acres of land. The land use designation is Commercial Neighbourhood 2 (C-N2). The property was assessed based on its land value.

Issues:

1. The subject property is incorrectly assessed based on the highest and best use as vacant land.
2. The subject property should be assessed based on the Income Approach to Value.

Complainant's Requested Values: \$151,200 (based on land value only); alternatively,
\$460,000 (based on the income approach)

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

1. The subject property is incorrectly assessed based on the highest and best use as vacant land.

The Complainant submitted the land rate of \$2,904,167 that the City applied to the subject property is excessive and it should be \$630,000/acre. The Complainant presented 4 sales of vacant land (C-N2) between 1.71 - 2.0 acres that had sold in 2008 - 2010 (Exhibit C1 page 20). He relied on two of the sales: specifically, 101 Copperpond SE that sold in September 2010 for \$450,000/acre and 111 Skyview Way NE that sold in April 2010 for \$752,000/acre. The last two sales were based on 1111 Panatella Blvd NW (1.71 acres) that sold in December 2008 for \$1,085,706/acre and then again in January 2009 for \$1,592,178/acre (“Panatella sales”). The Complainant indicated that he relied less on the Panatella sales because of the considerable increase in price within such a short period of time. Excluding them, the Complainant derived a median rate of \$601,000/acre which formed the basis of his request (\$630,000/acre) to be applied to the subject property (Exhibit C1 page 43). This resulted in the requested land rate of

\$15.00 psf or a total assessed value of \$151,200 for the subject property.

The Respondent submitted 7 vacant land sales (C-N2) between 0.298- 2.663 acres which had sold in 2008- 2009 for \$1,050,000 - \$2,722,625. In its analysis, the Respondent had set out time adjusted sale prices in which it based its assessed land rates (Exhibit R1 page 16). The Respondent included the Panatella sales in his analysis as there was no evidence to suggest these were not valid sales. The Respondent submitted the commercial rates for C-N2 land, the City had applied a \$64.00 psf rate for the first 20,000 sq. ft. and \$7.00 psf for the remainder. At the hearing, the Respondent acknowledged an error in calculations set out for "less than 20,000 sq. ft." and adjusted the median from \$63.38 psf to \$59.98 psf and the mean of \$64.28 psf to \$59.98 psf. The Respondent submitted the subject property was assessed based on the rate of \$64.00 psf and it should remain unchanged.

The Board was not convinced by the two vacant sales that the Complainant relied upon in his analysis to warrant a change in the assessment. The subject site has a land area of 10,379 sq. ft. whereas the Complainant's two land comparables are 87,120 sq. ft. and 86,648 sq. ft. The Board finds the Complainant's analysis failed to take into consideration diminishing returns. It was not clear to the Board how the Respondent derived a rate of \$64.00 psf for the first 20,000 sq. ft.; however, the Board finds the assessed land rate falls within the two land sales that are less than 20,000 sq. ft. The sale of 4528 Bow TR SW which is 12,985 sq. ft. (0.298 acres), sold in August 2008 for \$1,050,000. The Respondent applied a time adjusted sale price of \$892,500 or \$68.73 psf. The sale of 3711 Rundelhorn Dr NE which is 19,907 sq. ft. (0.457 acres), sold in September 2008 for \$1,200,000, the Respondent applied a time adjusted sale price of \$1,020,000 or \$51.24 psf. (During the course of the hearing, the Board noted both parties discussed time adjustments but it was not at issue).

2. The subject property should be assessed based on the Income Approach to Value.

The Complainant submitted the rental rates from 5 strip centres in support of an income approach. The leased areas ranged between 2,678 sq. ft. to 11,565 sq. ft. and the rates ranged between \$10.00- \$17.00 psf with a median of \$13.00 psf (Exhibit C1 page 48). Applying a \$13.00 psf rental rate and typical valuation parameters as set out in his calculation, the Complainant derived an assessment of \$460,000 (Exhibit C1 page 49).

The Respondent submitted that if this income producing property was assessed based on the income approach, it would result in a value less than its bare land value, which is the minimum value. Therefore, the Respondent chose to assess it based on its land value. The Respondent presented several equity comparables located in the same community as the subject property that were assessed based on land value and several CARB decisions in support of the Respondent's methodology (Exhibit R1 pages 15, 25 - 57).

The Board finds there was insufficient evidence presented to support an income approach to value in this instance. The Complainant based his rental analysis on properties that were not similar to the subject property. The rental rates were from strip centres in industrial parks located throughout the City, whereas the subject property is a freestanding building located in an established residential area. Moreover, there were no rental rates provided from the subject property itself. As such, the Board finds there was insufficient evidence presented to warrant a change in the assessment.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment for the subject property at \$664,000.

DATED AT THE CITY OF CALGARY THIS 3rd DAY OF October 2011.

A large, stylized handwritten signature in black ink, appearing to read 'Lana J. Wood', is written over a horizontal line.

Lana J. Wood
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

EXHIBIT NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission

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.*