

**CALGARY  
ASSESSMENT REVIEW BOARD  
REVISED 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:

***L. Lundgren, PRESIDING OFFICER***

***J. Rankin MEMBER***

***D. Steele, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of nine property assessments prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER	LOCATION ADDRESS	HEARING NUMBER	ASSESSMENT
098015621	6415 Ogden Dale Rd SE	59431	\$2,280,000
098016603	6111 Ogden Dale Rd SE	59433	\$7,500,000
098015308	7125 Ogden Dale Rd SE	58922	\$1,370,000
115067902	7133 Ogden Dale Rd SE	58943	\$2,060,000
115068108	7450 Ogden Dale PI SE	59325	\$1,410,000
115068207	7344 Ogden Dale PI SE	59321	\$1,530,000
200979482	7110 Ogden Dale PI SE	59153	\$3,330,000
115064990	7030 Ogden Dale PI SE	59330	\$2,540,000
115065013	7375 Ogden Dale PI SE	59326	\$14,990,000

These complaints were heard on the 14<sup>th</sup> and 15<sup>th</sup> day of June, 2010 at the office of the Assessment Review Board located at 4<sup>th</sup> Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *R. Worthington, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *D. Kozak, City of Calgary*

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

There were no procedural or jurisdictional matters.

**Property Descriptions:**

The nine properties under complaint are located in the Ogden Shops industrial area and are zoned Industrial – Heavy (I-H).

**6415 Ogden Dale Rd SE**

5.10 acres of vacant land

**6111 Ogden Dale Rd SE**

10.35 acres of land improved with two industrial warehouses not under complaint

**7125 Ogden Dale Rd SE**

2.09 acres of vacant land

**7133 Ogden Dale Rd SE**

4.40 acres of vacant land

**7450 Ogden Dale PI SE**

2.00 acres of vacant land

**7344 Ogden Dale PI SE**

2.61 acres of vacant land

**7110 Ogden Dale PI SE**

5.39 acres of land improved with two industrial warehouses not under complaint. The property assessment includes a land adjustment calculation of \$2,255,079 for extra land which could be subdivided.

**7030 Ogden Dale PI SE**

2.96 acres of land improved with industrial warehouses not under complaint

**7375 Ogden Dale PI SE**

3.92 acres of land improved with an industrial warehouse (rendering plant) not under complaint

**Issues:**

1. What is the correct assessment base rate per acre?
2. Respecting 7110 Ogden Dale PI SE, what is the correct rate per acre to be applied to the extra land?

**Complainant's Requested Values:**

6415 Ogden Dale Rd SE - \$1,683,000  
6111 Ogden Dale Rd SE - \$3,415,500  
7125 Ogden Dale Rd SE - \$ 689,700  
7133 Ogden Dale Rd SE - \$1,452,000  
7450 Ogden Dale PI SE - \$ 660,000  
7344 Ogden Dale PI SE - \$ 861,300  
7110 Ogden Dale PI SE - \$1,656,600  
7030 Ogden Dale PI SE - \$ 976,800  
7375 Ogden Dale PI SE - \$1,293,600

**Board's Decision in Respect to Each Matter or Issue:**

1. What is the correct assessment base rate per acre?

The Complainant filed these complaints on the basis that the base rate of \$1,050,000 per acre used to prepare the assessment is incorrect because it is based primarily on sales of Industrial- General (I-G) vacant land. The nine properties under complaint are I-H land and should not be valued on the same base rate as I-G vacant land because I-H vacant land is less valuable. Only the vacant land rates are challenged; none of the improvement values are under complaint.

The Complainant submitted that the nine properties are located in the Ogden Shops area which is one of the few areas in the city which can accommodate the heavy industrial uses on the subject properties, for example, rendering. All of the properties have limited access by way of 61 AV or Ogden Dale RD.

The Complainant asserts that I-G vacant land and I-H vacant land should be valued using different base rates per acre because they are significantly different zonings. In support of this argument, the Complainant submitted the LAND USE BYLAW – 1P2007 dated July 23, 2007 and pointed to the following.

Respecting the INDUSTRIAL - HEAVY (I-H) DISTRICT, the purpose of this district is intended to be characterized by:

- (a) industrial uses that typically have significant external nuisance effects that are likely to impact their land and neighbouring parcels;
- (b) industrial uses that are generally larger in scale and require large parcels;
- (c) Uses that typically feature tall stacks, silos, settling ponds, large unscreened structures, extensive outdoor activity or outdoor storage, and cranes or equipment that can not be integrated into a building;
- (f) developments that require thorough scrutiny and wide discretion by the Approving Authority.

Respecting the I-3 HEAVY INDUSTRIAL DISTRICT, the purpose of this district is to provide for manufacturing, assembling and fabricating activities, including large scale or specialized operations whose external effects are likely to be felt to some degree by surrounding districts. In addition, those uses with established functions in the economy but having a well-known nuisance potential are to be permitted only within this district.

Respecting the INDUSTRIAL –GENERAL DISTRICT, the purpose of this district is intended to be characterized by:

- (a) parcels in internal locations within industrial areas;
- (b) a wide variety of industrial uses; and
- (c) industrial buildings that have little or no relationship to adjacent parcels.

The Complainant concluded by stating that the above uses demonstrate that I-H land and I-G land are sufficiently different in terms of purpose and permitted/discretionary land uses that they should not be valued using the same base rate per acre.

The Board finds that there are significant differences between the uses allowed in the I-H and I-G districts, notably, the I-H district accommodates heavy industrial development with operations that generally create impacts beyond site boundaries and the I-G district is intended for sites mainly in the interior of industrial areas which do not have any nuisance factors that adversely affect the adjacent parcels. Although the Complainant demonstrated the differences in the uses in I-H and I-G districts, the Complainant had insufficient evidence to establish that I-H land sells for less than I-G land.

The Complainant submitted that there are only three sales of I-H vacant land in the relevant time frame, one of which should not be used as a sales comparable because it has three negative influences. The Complainant relied on two sales which were I-4 prior to the new zoning bylaw (LAND USE BYLAW – 1P2007) and would be equivalent to heavy industrial zoning now. The two sales used by the Complainant are located at 9250 48 ST SE and 6620 86 AV SE. The property located at 9250 48 ST SE is a 2.23 acre parcel in South Foothills which sold for \$302,826 per acre on April 21, 2008. The Complainant stated that 9250 48 ST SE is a serviced parcel because he saw a sanitary/sewer line running along the western boundary when he visited the site. The parties agree that the site is serviced with a water main.

The second sales comparable located at 6620 86 AV SE is an 8.29 acre parcel which sold for \$360,000 per acre on February 11, 2009. The Complainant noted that the Respondent also chose this property as a comparable, therefore, it must have been considered similar by the Respondent. The Complainant stated that the third sale, 2647 61 AV SE located in Ogden Shops near the subject parcels, should not be used because it is not similar to any of the properties under complaint. It has the following influences: shape, environmental concerns, and limited uses/access problems. The time adjusted sale price of \$226,558 per acre for 2647 61 AV SE represents a parcel with impediments and the Complainant is not asking the Board to reduce the base rate per acre this low.

The Respondent submitted that the SE base rate of \$1,050,000 is applied to all vacant land zoned I-G, I-B, I-C, and I-H because the sales evidence supports this grouping. The Respondent argued that the assessment to sales ratio (ASR) median of 0.99 demonstrates that the assessment rates per acre are correct. The Board noted that no market evidence was presented to show that I-G vacant land and I-H vacant land sells for the same base rate per acre.

The Respondent presented eleven sales comparables in the SE region that have no site specific

influences. All eleven properties are zoned I-G, range in size from 0.87 acres to 8.77 acres, and sold for between a time adjusted sale price of \$340,218 per acre and \$760,544 per acre in 2008/2009. The assessment to sales ratio (ASR) median for this group of sales is 0.99. During the course of the hearing, the Respondent decided that there was some confusion in the documents regarding 6620 86 AV SE and perhaps the Board shouldn't use it.

The Respondent disagrees with the Complainant that the sale at 9250 48 ST SE is a good comparable because the record shows it has a water main only and all of the properties under complaint have full services.

Given that the subject properties have no site specific influences, the Board reviewed the Respondent's list of sales comparables in the SE region that have no site specific influences. The Board finds that they do not support the base rate of \$1,050,000 per acre used by the Respondent to assess the subject properties. The sales comparables range from \$340,218 to \$760,544 per acre which does not approach the base rate value used by the Respondent to assess the properties under complaint.

The Board appreciates that there have been few I-H sales from which to choose, however the Board relies on the two sold properties located at 9250 48 ST SE and 6620 86 AV SE as the best indicators of market value. They are similar to the subject properties in terms of zoning and are located in the SE quadrant of the city. The Board accepts the statement by the Complainant that there exists a sanitary/sewer line on the western boundary of 9250 48 ST SE. The properties sold for \$302,826 and \$360,000 per acre respectively, and support the Complainant's requested base rate of \$330,000 per acre.

Accordingly, the base rate of \$330,000 per acre is set for the subject properties.

2. Respecting 7110 Ogden Dale PI SE, what is the correct rate per acre to be applied to the extra land?

The Complainant is requesting \$330,000 per acre for the extra land and this point was not argued by the Respondent. The Board sets the rate per acre for the extra land at 7110 Ogden Dale PI SE at \$330,000 per acre.



**Board's Decision:**

The complaints are allowed and the property assessments are reduced as follows:

ROLL NUMBER	LOCATION ADDRESS	HEARING NUMBER	ASSESSMENT	CARB DECISION
098015621	6415 Ogden Dale Rd SE	59431	\$2,280,000	\$1,683,000
098016603	6111 Ogden Dale Rd SE	59433	\$7,500,000	\$7,130,000
098015308	7125 Ogden Dale Rd SE	58922	\$1,370,000	\$689,700
115067902	7133 Ogden Dale Rd SE	58943	\$2,060,000	\$1,452,000
115068108	7450 Ogden Dale PI SE	59325	\$1,410,000	\$660,000
115068207	7344 Ogden Dale PI SE	59321	\$1,530,000	\$861,300
200979482	7110 Ogden Dale PI SE	59153	\$3,330,000	\$2,730,000
115064990	7030 Ogden Dale PI SE	59330	\$2,540,000	\$1,880,000
115065013	7375 Ogden Dale PI SE	59326	\$14,990,000	\$14,360,000

MAILED FROM THE CITY OF CALGARY THIS 30 DAY OF November 2010.



L. Lundgren  
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.*