

**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-26.1, Section 460(4).

between:

Altus Group Ltd., *COMPLAINANT*

and

The City Of Calgary, RESPONDENT

before:

J. Noonan, *PRESIDING OFFICER*

J. O'Hearn, *MEMBER*

B. Jerchel, *MEMBER*

This is a complaint to the Calgary Assessment Review Board 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:	042120105
LOCATION ADDRESS:	4608 16 Ave NW
HEARING NUMBER:	57692
ASSESSMENT: \$	\$2,520,000

This complaint was heard on the 11th day of June, 2010 at the office of the Assessment Review Board located at the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

A. Izard , *Senior Advisor* K. Fong, Agent - Altus Group

Appeared on behalf of the Respondent:

B. Thompson, E. Lee, D. Zhao, *Assessors*, *The City of Calgary - Respondent*

Property Description:

The subject is located at 4608 16 Ave NW, Calgary. It is a stand alone gas bar–convenience store-carwash of some 2400 sq.ft. on a parcel of 24,004 sq.ft. The assessed value is \$2,520,000 but on discovery of an error in the cost calculations for improvements during the hearing, the corrected assessment is \$2,360,000.

Overview:

The Respondent City used the cost approach to determine the assessments of this and other stand alone gas bars on separately titled properties. The CARB was asked to consider whether the subject had been equitably assessed in comparison to similar developments on sites shared with other commercial development where an income approach was used.

Issues:

1. Has the subject been equitably assessed?
2. If not, what are the correct parameters for an income approach?

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

The Complainant advanced three examples of free-standing gas bars where the income approach had been used and/or directed by ARB/MGB decisions: 10506 Southport Rd, 4915 130 Ave, and 255 Shawville Blvd. Another property mentioned was 9915 Bonaventure, but the City stated that the cost approach had indeed been used in 2010, but with a large portion of its land being attributed to the adjacent Canadian Tire store for parking. The business tax assessment was based on a NARV of \$105,000 and this income should also serve for property tax purposes. Gas bars-carwashes that are part of a shopping centre roll number are attributed a PGI of \$105,000 and so ought the subject.

The Respondent defended the use of the cost approach for stand alone gas bars with the observation that these properties rarely changed hands in the marketplace, but when they did, the improvement was frequently removed and a restrictive covenant placed on title, preventing future use as a gas bar. Consequently, in the vacuum of market indicators the assessor had used the cost approach to determine value for this and similar properties. Here, the land value was substantial as a commercial corridor rate had been determined: \$107 per sq.ft. for the first

10,000 ft and \$17 per sq.ft thereafter. Six equity comparables were presented on similarly zoned major thoroughfares, and the Board was assured that there were many other examples of the same cost approach used in the preparation of assessments for similar operations on their own separately titled lots.

The CARB finds that the Complainant has presented an appealing argument, but finds the alleged inequity rests more with a seemingly unfair advantage by way of lesser assessments accorded to shopping centre gas bars, than the subject and its peers being over-assessed. The compelling distinction between these two identical business operations is separate title. An analogous situation exists in the comparison of two identical apartment towers, each owned by one individual in the business of renting accommodation. Where one tower has been converted to condominium status, the market and the assessment branch value that building differently.

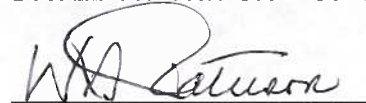
Having resolved the first issue in favour of the Respondent's position, there was no need to consider the second.

Where the Complainant has introduced examples of free-standing gas bars on separate title that were assessed by income approach, the Board is persuaded that the panel decisions leading to such treatment considered the special circumstances of each property, and found them to be part of a larger development.

Board Decisions on the Issues:

The Board sets the assessment at the corrected amount of \$2,360,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF June 2010.



for J. Noonan
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.*