

**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 Limited, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Paul G. Petry, PRESIDING OFFICER***

***Don Steele, MEMBER***

***Ike Zacharopoulos, 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: 044183309**

**LOCATION ADDRESS: 1520 – 16 Avenue N.W.**

**HEARING NUMBER: 59759**

**ASSESSMENT: \$1,430,000**

This complaint was heard on 7 day of July, 2010 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:

- Altus Group Limited – No One Appeared

Appeared on behalf of the Respondent:

- City of Calgary – S. Turner, Assessor

### **Property Description and Background:**

The subject property located at 1520 – 16 Avenue N.W. is assessed at \$1,430,000. On March 5, 2010, the Assessment Review Board (ARB) received a complaint concerning the assessment amount for the subject property. A merit hearing of this matter was scheduled for July 7, 2010. On March 26, 2010 the City of Calgary brought an application for a jurisdictional hearing to deal with their request that the complaint be dismissed based on non compliance in the filing of the complaint form. A further matter respecting the lack of the Agent Authorization form was also brought forward by the City of Calgary. These jurisdictional matters were heard by a one member panel of the CARB on May 10, 2010. The June 15, 2010 CARB decision on these matters favoured the Complainant and the final disposition was that the complaint proceed to hearing. On June 18, 2010 the City of Calgary by letter to the ARB with a copy to the Altus Group advise that the hearing notice had informed the Complainant that their evidence must be filed on or before May 25, 2010 and that no evidence had been filed with the City of Calgary.

At the merit hearing of this matter on July 7, 2010 the Assessor Ms. Turner attended on behalf of the City of Calgary; however no one was in attendance on behalf of the Altus Group. Ms Turner indicated that she understood the Complainant would not be in attendance and that the City had not received any evidence from them respecting the matters raised in their complaint.

The Altus Group did not appear for attendance at the hearing of this matter. Section 463 of the Municipal Government Act (Act) requires that the ARB proceed with the hearing so long as the parties have been notified. Therefore the ARB proceeded with the hearing on July 7, 2010.

### **Issues:**

While the complaint form filed March 5, 2010 listed 12 grounds for the complaint no evidence or argument respecting these grounds were before the CARB. The statements describing the complainant's grounds are only assertions and in this case are in the view of the CARB not triable

issues without supporting evidence and argument. The Assessor indicated that they were unable to respond and further that it was unnecessary that they respond in these circumstances.

### **Board's Decision**

In this case the issues or grounds raised in the complaint form could not be decided without supporting evidence and there was no evidence before the CARB except the complaint form itself respecting the matters under complaint. Therefore the Board has no choice but to dismiss the complaint.

### **Costs**

This case raises concerns respecting the actions of the Complainant. The Complainant did not file any disclosure respecting the matters raised in their complaint. The Complainant had not taken steps to withdraw the complaint and therefore the Respondent and the CARB allocated the required resources to conduct a merit hearing respecting the complaint. Nor had the Complainant informed the ARB that they would not have a representative in attendance at the hearing. While section 16 of MRAC provides that personal attendance is not required, the Complainant made no effort to follow the procedures of this section if their non-attendance was foreseen and unavoidable. Given the circumstances leading up to the July 7, 2010 hearing, the Complainant should have concluded that they did not have a reasonable chance of success and therefore taken action to eliminate the need for the hearing to proceed.

Under section 52(3) the CARB "may on its own initiative and at any time award costs". The CARB is considering taking action in this case to award cost against the Altus Group in favour of the City of Calgary in accordance with one or both of the first two categories of Part 2 of Schedule 3 of MRAC. The CARB therefore invite the parties to make written submissions to the CARB respecting this matter. The Respondent's submission must be received by the ARB office and the Altus Group no later than 4:00 pm on July 30, 2010. The Complainant submission must be received by the ARB and the City of Calgary Assessment Unit no later than 4:00 pm on August 6, 2010. The CARB will consider the parties submissions in making the final decision respecting the awarding of costs in this matter.

### **Decision Summary**

The complaint is dismissed and the matter of costs will be made following the dates for submissions on this matter from the parties.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 16<sup>th</sup> DAY OF JULY 2010.



**P. Petry**  
**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.*