

**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).

between:

Altus Group Ltd, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

I. Fraser, MEMBER

A. Zindler, MEMBER

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

ROLL NUMBER:	078069705
LOCATION ADDRESS:	3410 Ogden Rd. SE.
HEARING NUMBER:	59934
ASSESSMENT (2010):	\$8,000,000

This complaint was heard on 22nd day of July, 2010 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *R. Worthington* *Altus Group*

Appeared on behalf of the Respondent:

- *D. Kozak* *City of Calgary*

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

There were no preliminary matters. The merit hearing proceeded.

Property Description:

The subject property is a 2.79 acre site with 2 separate, 2 storey industrial warehouse buildings with rentable building areas of 40,000 sq. ft. and 41,498 sq. ft. respectively. The buildings were constructed in 1941 and contain freezer/cooler space. The site is in the central region of Calgary.

Issues/Ground for Complaint:

The assessed rate of \$98.00/sq. ft. is excessive considering the age of the buildings.

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

- The Complainant provided evidence of a reported sale of the property on August 4, 2009 for \$4,250,000 (Page 13 of evidence package).
- The Complainant provided a "Real Net" report as further evidence of the sale, with the "event date" of 2009-08-14 (Page 14).
- The Complainant argued that the sale was a tenant purchase of the property and the sale was actually completed prior to July 1, 2009, the valuation date for assessment purposes. The Complainant argued that the sale price in the base year of assessment (2009) is the best indicator of market value.
- The Complainant advised there were no sales of similar type properties (ie. Old warehouses with freezer/cooler facilities).
- The Respondent provided 4 industrial sales comparables with time adjusted sale prices ranging from \$96.00/sq. ft. to \$106.00/sq. ft. as evidence that this assessed rate of \$98.00/sq. ft. was reasonable.
- The Respondent argued that the reported sale was after the valuation date (July 1, 2009) and therefore post facto.
- The Respondent provided a position paper (Page 34 and Page 35) "Use of Post Facto Market Indicator Information" which states "it is therefore the position of the City of Calgary's Assessment Business Unit that, based on MGA requirements, legal precedent, assessment practice and reasons of practicality, post facto market indicator information must not be used to prepare assessments or create valuation, but that it is acceptable, given it is necessary to use post facto market indicator information, if time adjusted to test assessments or measure valuations.

- The Board finds that the assessment at \$8,000,000 is not supported when tested against the sale at \$4,250,000 within 5 weeks of the valuation date.

Board Decision:

The assessment is set at \$4,250,000.

DATED AT THE CITY OF CALGARY THIS 4 DAY OF August 2010.



B. Horrocks
Presiding Officer

BH/sd

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.*