

**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:

R. Mowbrey, PRESIDING OFFICE

D. Morice, MEMBER

P. Pask, 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: 067091108

LOCATION ADDRESS: 839 10 AV SW

HEARING NUMBER: 58254

ASSESSMENT: \$6,600,000

This complaint was heard on 6th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- B. Neeson

Appeared on behalf of the Respondent:

- *D. Grandbois*

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

There were no procedural or jurisdictional matters.

Upon questioning by the Presiding Officer, the parties present indicated they had no objection to the composition of the Board. In addition, the Board indicated they had no bias on this file.

Property Description:

The subject property is a 29,259 square foot parcel with 10,891 commercial/retail space that is located at 839 10th AVE SW. The subject property is located in the beltline-4 zone and is assessed using a land based rate of \$215 PSF.

Issues:

1. What is the highest and best use for the subject property?
2. Should a corner lot influence be applied to the subject property?

Complainant's Requested Value:

\$3,300,000

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

1. What is the highest and best use?

The Complainant argued that the subject property should be assessed using the income approach and not land based assessment approach. The Complainant states that the conclusion that the highest and best use of the subject property is as vacant land is in error. The conclusion ignores the important test of reasonably probable and there is no evidence of market demand for a change in use of the site. The Complainant stated that with the current economic condition trending downward,

there was little opportunity for the site to be developed in the near term. The Complainant indicated that a number of beltline properties were sitting vacant and others that were pre-approved projects have been put on hold, while some have been halted or cancelled. The Complainant argued that the subject property should be assessed for what it is and not what it could be some time in the future.

The Respondent advised the Board that the assessment for the subject property had gone down in value from the previous year. The Respondent gave the Board evidence showing sales in the beltline of commercial land during the last few years. (exhibit R-1 page 22). These 6 sales showed an average SP/PSF of \$270 and a median SP/PSF of \$233 which supports the assessment. The Respondent also included a post-facto sale occurring in September 25th, 2009. The sale was a court ordered sale and the SP/PSF was \$222. The Respondent rebutted the Complainant's sales (exhibit R-1 page 90) The Respondent argues that 123 12 AV SE, 126 13 AV SE and 105 10th AV SE are all valid sales and the rest have some deficiencies in the evidence such as non-arms length listing only and vendor takeback. The Respondent noted the Complainant's 3 sales support the assessment.

The Board relied on the 5 sales from the Respondent and the 3 sales from the Complainant giving a total of 8 sales. The Board notes that none of the sales were time adjusted and the median SP/PSF is \$217.

The Board finds the \$215 PSF to be equitable, fair and correct for the subject property.

2. Should the assessed property be assessed with a corner lot influence?

The Complainant argued that the subject property should not be assessed a 5% corner lot influence, however, the Complainant provided no market evidence to support the issue that a corner lot would sell for the same price as an interior lot. The Complainant did not meet the onus in this regard. The Board finds that a 5% corner lot influence is consistent and equitable with other corner lot locations in the beltline.

Board's Decision:

The assessment of the subject property is confirmed at \$6,600,000.

DATED AT THE CITY OF CALGARY THIS 18th DAY OF August 2010



R. Mowbrey
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.*