

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business 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:

H. Kim, PRESIDING OFFICER

R. Roy, MEMBER

E. Reuther, MEMBER

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

ROLL NUMBER:	101012219
LOCATION ADDRESS:	120 62 Ave SE
HEARING NUMBER:	58944
ASSESSMENT:	\$1,660,000

This complaint was heard on the 16th day of August, 2010 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *Christine Van Staden*

Appeared on behalf of the Respondent:

- *Don Kozak*

Property Description:

The subject complaint is of a 45,088 sq. ft. (1.04 acre) vacant parcel in the Manchester industrial district zoned Commercial Corridor 3 C-COR3 f1.0 h12. The zoning allows a number of commercial uses, a maximum floor area ratio (FAR) of 1.0 and a maximum height of 12 metres. It is assessed at a rate of \$107/sq. ft. for the first 10,000 sq. ft. and \$17/sq. ft. for the balance.

Issues:

The Complainant identified a number of issues on the Complaint form, however, at the hearing, the only issue argued and considered was whether the assessment reflected market value.

Complainant's Requested Value: \$1,500,000 revised to \$894,000 at the hearing.

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

Complainant's position:

This part of Manchester is in transition from industrial to commercial uses, and this parcel was rezoned from I-2 under the previous Land Use Bylaw to C-COR3 when the current one was adopted in June 2008. There are no recent sales of land with this use; however an appraisal was commissioned in mid-2009 for a parcel with this land use. The Complainant presented portions of this appraisal, which was prepared for a different parcel that was not identified. The appraiser considered a number of sales of land with similar land uses (Industrial General, Industrial Business and Direct Control) in various quadrants of the City in locations considered to be comparable to the appraised parcel. Details of the sales used in the appraisal were submitted, along with the value conclusion of \$860,000 per acre.

The Complainant also presented a number of sales of vacant industrial parcels of various sizes (ref. ARB 1171/2010-P) that indicated an industrial land rate of \$620,000 per acre. The relative value of commercial land supports the \$860,000 per acre value conclusion of the appraisal. Portions of the Land Use Bylaw were submitted to support the Complainant's position that the development potential of industrial land is similar to the subject, in terms of maximum allowable FAR and height.

Further, the 2010 assessment was an increase from the 2009 assessment of \$1,540,000. The change in market conditions between July 1, 2008 and July 1, 2009 does not support an

increase in the assessment. In conclusion, the Complainant stated the evidence shows the assessment should be reduced to \$860,000 per acre or \$894,400 truncated to \$894,000.

Respondent's position:

The Respondent submitted portions of Land Use Bylaw 1P2007 as well as a brochure describing the various Industrial districts. He stated that C-COR land was not comparable to Industrial because the allowable uses are different: C-COR does not allow industrial uses. The Respondent presented the commercial land rates for the Land Use districts under the 1P2007 Bylaw. The same rate is used for C-COR1, 2, and 3. FAR and maximum building height do not determine the land rates, allowable uses determine comparability.

The Respondent presented 11 parcels zoned C-COR1, 2, and 3 that sold between July 2007 and February 2009 in all four quadrants of the City. They ranged in size from 0.12 to 4.61 acres and sold for a time adjusted sale price (TASP) per acre of \$812,030 to \$7,207,000.

Decision and Reasons:

In rebuttal, the Complainant demonstrated that a number of the Respondent's comparables were not at all similar to the subject; and that one was not arms length and should be discounted. The Board also agrees with the Complainant that FAR and maximum height should be considered when valuing a vacant parcel. Nevertheless, the Board agrees with the Respondent that commercial land is not comparable to industrial and that allowable uses are at least as important as FAR and height in evaluating development potential.

The Complainant's analysis of the relative value of commercial and industrial land was subjective and not supported by sales evidence. Both the Respondent and the Complainant presented sales in locations widely removed from the subject that did not assist the Board. Only one sale was at all comparable to the subject - the February 2008 sale of 0.64 acres, also zoned C-COR3 at 7370 4 St SW for a TASP of just over \$3 million per acre. This parcel is in reasonable proximity, but smaller and in a better location. It is superior to the subject, but its sale price per acre is almost double the assessment of the subject. On balance, in the absence of better evidence to demonstrate a lower value, the Board is of the opinion that the sales evidence supports the assessment.

Board's Decision:

The complaint is denied and the assessment is confirmed at \$1,660,000.

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



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.*