

**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 Limited, COMPLAINANT***

**and**

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

**before:**

***L. Loven, PRESIDING OFFICER***

***J. Mathias, 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: 201325719**

**LOCATION ADDRESS: 19369 Sheriff King Street S.W.**

**HEARING NUMBER: 59148**

**ASSESSMENT: \$10,960,000**

This complaint was heard on the 19<sup>th</sup> day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- A. Izard and B. Neeson, representing the Altus Group Limited,  
on behalf of United Acquisition II Corp. and Hartel Holding Co Ltd.

Appeared on behalf of the Respondent:

- E. D'altorio, representing the City of Calgary

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

Both the Respondent and the Complainant confirmed to the Board that they had no procedural or jurisdictional matters to be raised.

**Property Description:**

The subject property consists of 11.44 acres of land known as the proposed Market at Silverado, located on the NW corner of Sheriff King Street and 194 Avenue in the community of Silverado. The property is zoned DC/C5 – Shopping Centre Commercial. The total assessment is \$10,960,000.

**Issues:**

1. The assessed rate applied to the subject land should be lowered to reflect:
  - a. Site specific considerations
    - i. location;
    - ii. zoning;
    - iii. the lack of servicing; and,
  - b. equity.

**Complainant's Requested Value:** \$6,864,000

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

**Issue 1.a.i. Location**

The Complainant submitted the property is located in the furthest point south in the southwest part of Calgary, bordering on the county to the south and provided photographs and maps in evidence. This evidence supported the Complainant's position regarding the location of the subject property showing earthwork and rough grading of the site and farmland to the east and south.

The Complainant agreed that the subject property is the furthest south, but that there is residential development to the west, and other development further to the east of the subject property.

Based on the evidence and argument presented above, the Board agrees that the subject property is one of the furthest south proposed commercial developments in the City of Calgary.

#### **Issue 1.a.ii. Zoning**

The Complainant submitted an Extended Assessment Summary Report noting the assessed value of the subject land at \$958,041 per acre or \$22 per square foot. The Board notes, the land use guideline given in the report is DC/C-5 Shopping Centre District. The Respondent submitted a 2010 Non-Residential Vacant Land Summary, giving the property use as CM and land use as C-R2. The Respondent provided a table of commercial rates showing C-R1,2,3 assessment rate at \$69 per square foot for the first 30,000 square feet and the remainder at \$19 per square foot. The Respondent further clarified that CR-1 was typified by large "big box" single use developments, CR2 an enclosed mall of not less than 40,000 square metres (or 430,556 square feet) and CR3 characterized by multiple buildings on multiple parcels, and that CR1,2,3 allows greater floor area ratios compared to that allowed under the DC zoning for the subject property.

The Complainant submitted a copy of the Amendment #LOC2004-0078 to Bylaw #47Z2005 restricting the Permitted and Discretionary uses C5/.5 Shopping Centre Commercial of Bylaw 2P80, highlighting the site design, "... shall contain predominantly smaller-scale businesses and shops." and noting a parking requirement of 5 per 1,000 square feet of space. The Board also notes a requirement for pedestrian connections within the development and to the adjacent parcels DC4 (recreational area) to the east and DC3 (residential) to the north.

Based on its consideration of the above evidence, the Board finds the Complainant used the C-R2 land use to assess a DC/C-5, and the DC/C-5 zoning is more restrictive with regards to allowable site coverage, type of development and other site specific requirements, notwithstanding the development permit application was rejected by the City of Calgary; therefore, the Board accepts that the subject property should be assessed lower than the assessed rate applied to C-R-2 zoned properties.

#### **Issue 1.a.iii. Lack of Servicing**

The Complainant noted on the Extended Assessment Report submitted that about 10% of the subject property is presently undevelopable because there is no sewer connection to that portion of the property and that according to a representative of the owner that this was not likely to be remedied until two to five years into the future. The Complainant submitted a plan of the proposed development on the subject property, with the undevelopable portion marked in yellow. The Board notes that this portion appears to be somewhat less, and if to scale, appears to represent about 5% or about half of the 10% claimed. The Respondent countered the subject site was serviced, but the map referred to by the Respondent contained in its RealNet report does not clearly show any servicing. The photographs of the subject property submitted by the Complainant show the paved roadways with curbs and storm sewer grates on the south and east sides of the subject property.

Giving consideration to the foregoing evidence and agreement, the Board finds there may be some validity to the Complainant's position that a small, but not insignificant, portion of the subject property may be undevelopable in part; however, this does not significantly restrict in any way the development of the remainder of the site.

**Issue 2. Equity**

The Complainant submitted two Alberta Data Search reports; one for the sale of the subject property on December 18, 2009 for \$588,574 per acre by Hartel Holding Co Ltd and United Acquisitions II Corp. to Silverado Shopping Centre Ltd; and the second the adjacent 5.46 acre parcel to the north of the subject property, on December 31, 2009 for \$731,639 per acre by the same sellers to Silverado Townhouse Ltd. The Board notes the first report cautions the parties may be related and the zoning of the second sale is also DC. The Board further notes that both sales may be post facto, but is prepared to give some weight to these sales as they occur within the 2009 assessment year.

The Respondent provided two sets of three vacant land comparables. The first set of three comparables were for lands zoned CR-2, which would allow a significantly greater density of that allowed under the zoning of the subject property, and two had traffic influences that could potentially increase the value of the property compared to the subject property. The assessed land rate was \$22, \$32 and \$20 per square foot. The second set of three comparables were all zoned CR-1, two were improved properties, and one had traffic influence. The assessed land rate for the comparable properties was \$22, \$22, and \$24 per square foot.

The Respondent further provided two land sales for one property, the first in November 2008 for 10.23 acres selling at \$22.03 per square foot, and the second in June 2009 for 3.59 acres selling for \$28.67 per square foot. The Board notes the two sales have the same roll number, 20112344, and are zoned C-R2, similar to the Respondents equity comparables above.


In consideration of the above evidence and argument, the Board finds that the subject property is negatively influenced by the more restrictive DC zoning compared to the assessed land use C-R2. Application of the typical 25% reduction for land use restriction (DC) used by the City of Calgary, lowers the assessment rate from \$22 per square foot to \$16.50 per square foot or \$718,824.52 per acre. This reduction is further supported by the post-facto sale of the adjacent parcel at \$731,639 per acre.

The valuation method applied in this instance is the Sales Comparison Approach. The use of this approach to value is contextually allowed in the legislation. The Complainant did not advance any argument or evidence to support the contention that an error had been made in the application of the Sales Comparison Approach in preparing these assessments.

**Board's Decision:**

For the reasons set forth above, the assessment of the subject property is hereby adjusted as follows: \$8,220,000.

DATED AT THE CITY OF CALGARY THIS 24<sup>th</sup> DAY OF SEPTEMBER 2010.

  
for L. R. Loven  
Presiding Officer

CC: Owner

*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.*