

**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:

R. Mowbrey, PRESIDING OFFICER

J. Rankin, MEMBER

S. Rourke, MEMBER

These are two complaints to the Calgary Assessment Review Board in respect of a Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 201492741

LOCATION ADDRESS: 1250 20 AV SE

HEARING NUMBER: 59821

ASSESSMENT: \$436,500

This complaint was heard on the 19th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, and Boardroom 9.

Appeared on behalf of the Complainant:

- *B. Ryan*

Appeared on behalf of the Respondent:

- *D. Kozak*

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

A preliminary issue was brought to the Board by the Complainant regarding the confidentiality of a document and the Board agreed to seal the evidence in a sealed envelope.

Upon questioning by the Presiding Officer, the parties 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 3.32 acre site that is zoned industrial-general, located at 1250 20 AV SE, and is presently industrial vacant land.

Issues:

1. What is the market value of the subject property?
2. What is the correct size of the subject property?

Complainant's Requested Value:

The Complainant's requested value is nil.

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

1. What is the market value of the subject property?

The Complainant provided information to the Board regarding the fact that the City knew the site was contaminated. (Exhibit C-1 page 2 of 32). In addition, the Complainant provided the Board three remediation scenarios by a firm known as AECOM. (Exhibit C-1 pages 9/10 of 33). The total cost of remediation scenario number 3 is in the order of \$850,000. Such a figure far exceeds the assessment amount and therefore the Complainant has requested an assessment value of nil. The Complainant stated that he had no dispute with the assessed value of the property of \$436,500 if the property was clean, but the property is not clean and a contaminated influence adjustment would have to be made. The Complainant further noted that the backfill was also contaminated and thereby exacerbating the issue. The Complainant advised the Board that the revised 2010 vacant land calculation found on page 19 in Exhibit C-2 did not include any deduction or adjustment for

contaminated influences on the subject property.

The Respondent gave evidence stating the assessment had been prepared using mass appraisal techniques and then deducted influences for shape, limited use and partial services, giving a 75% influence adjustment to the subject property. The Respondent stated the City did not give the subject property a contaminated land influence adjustment as the subject property was not registered with the provincial government.

The Board found that the subject property was indeed contaminated and the fact that the subject property was not registered with the provincial government did not lessen the contaminated issue. The Board noted that the remediation scenarios were just that, no remediation work had started and all scenarios were of a future event. The Board could not adjust for future events that have not occurred. The Board therefore finds that a 100% site contamination influence should not be applied to the subject property, but a 30% contaminated site influence should be applied to the subject property. With the revised 2010 land calculation assessment of \$399,750 taken as a clean site, a 30% contaminated site influence would reduce the assessment to a revised value of \$279,500.

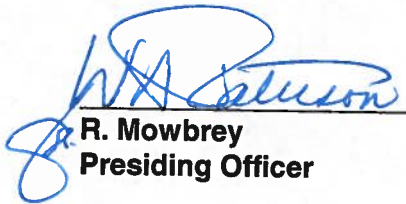
2. What is the correct size of the property?

The Board heard evidence from both parties regarding the size of the subject property. The Board determined that 2.83 acres is the correct size of the subject property.

Board's Decision:

The Board's decision is to revise the assessment to \$279,500.

DATED AT THE CITY OF CALGARY THIS 15 DAY OF SEPTEMBER 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.*

Exhibits

C-1 Complainant's evidence 34 pages (put in a sealed envelope per agreement)

C-2 Complainant's evidence 45 pages.

C-3 Complainant's legal evidence 67 pages.

R-1 Respondent's evidence 38 pages.