

**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, COMPLAINANT***

**and**

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

**before:**

***T. Hudson, PRESIDING OFFICER***

***D. Julien, MEMBER***

***R. Cochrane, MEMBER***

This is a complaint 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:

<b>ROLL NUMBER:</b>	<b>200223691</b>
<b>LOCATION ADDRESS:</b>	<b>1111 – 1 St SE</b>
<b>HEARING NUMBER:</b>	<b>58984</b>
<b>ASSESSMENT:</b>	<b>\$4,740,000</b>

This complaint was heard on the 23<sup>rd</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 Number 4.

Appeared on behalf of the Complainant:

- *Mr. Brendan Neeson, Representative, Altus Group Inc.*

Appeared on behalf of the Respondent:

- *Mr. Dale Grandbois, Assessor, The City of Calgary*

### **Property Description:**

The subject property is described as a Co-op gas bar with Kiosk constructed in 1993 and located in the Beltline District of Central Calgary at 1111 – 1<sup>st</sup> St. SE. The subject property has been assessed based on highest and best use as vacant land and is 0.48 acres or 21,001 sq. ft. in size. The 2010 assessment was prepared using a base land rate of \$215 psf, plus a 5% positive adjustment for a corner lot influence for a total \$4,740,000.00. The Complainant requests that the assessment be reduced to \$45,000.00 based on equity with the assessments of other gas bars here in the city; or in the alternative, be reduced to \$3,990,000.00 based on a land rate of \$190.00 psf.

### **Issues/Grounds for Complaint:**

1. Should the subject property be assessed using the income approach to value or on the basis of Highest and Best Use?
2. Should the land value of the subject property assessment be reduced to \$190 psf to reflect a negative shape influence?

### **Board Findings on the Issues:**

**Issue #1:** Should the subject property be assessed using the income approach, or on the basis of highest and best use, land value only?

The Complainant introduced evidence to show that most of the gas bar/Kiosk type properties in the City of Calgary are assessed using the income approach to value. The Complainant suggested that based on equity the subject property assessment should be prepared in the same way. The Respondent countered that the subject property is not comparable to other gas bars in the city, because of its location; and the fact that the Complainant's comparables are each part of a much larger retail operation; while the subject is stand alone. The Respondent further noted that the subject property had been assessed based on highest and best use land value only, in both 2008 and 2009. In fact, this methodology was confirmed by the tribunals adjudicating the assessments in those years.

The Board finds that the highest and best use of the property is vacant land and therefore the valuation of the Respondent is appropriate.

**Issue 2:** Should the assessment rate for land value be reduced to \$190 psf to reflect a negative shape influence of the parcel?

The Complainant acknowledged that the previous 2010 CARB decisions confirmed the base rate of \$215 psf applied by the City of Calgary and that the sales evidence before this CARB is the same. The Complainant further acknowledged that the 5% positive adjustment for corner lot influence is appropriate. However, the Complainant also suggested that due to the shape of the subject parcel, a negative adjustment of 15% is also appropriate. This adjustment would reduce the current assessment rate of \$225 psf (\$215 psf plus 5%) to \$190 psf (\$225 psf minus 15%).

The Respondent countered that the test for the negative influence of the shape of a parcel is the issue of "functionality"; that is, is the fundamental use of the property compromised by the shape of the parcel. In the view of the Respondent, the shape of the subject parcel does not compromise the functional use of the property, and therefore a reduction in the assessed land rate is not appropriate.

Based on the maps and evidence submitted by the parties, the board finds that there is insufficient reason to conclude that the shape of the subject parcel negatively influences functional use and therefore a 15% reduction to \$190 psf in the assessed land rate is denied.

**Board's Decision:**

The complaint is denied and the property assessment is confirmed at \$4,740,000.00.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF August 2010.



**T. Hudson**  
**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.*