

**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, Section 460(4).

**between:**

***Altus Group Ltd., COMPLAINANT***

**and**

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

**before:**

***L. Wood, PRESIDING OFFICER***

***C. McEwen, MEMBER***

***A. Wong, 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: 119008894**

**LOCATION ADDRESS: 9416 40 Street SE**

**HEARING NUMBER: 56442**

**ASSESSMENT: \$6,140,000**

This complaint was heard on 27th day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *Mr. D. Mewha*

Appeared on behalf of the Respondent:

- *Mr. J. Lepine*

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

During the closing arguments, the parties argued whether or not the Board is bound by mass appraisal. The Board will address these arguments in its reasons set out below.

**Property Description:**

The subject property consists of two single tenant warehouses, both built in 1978. The first warehouse has 13,460 sq ft of rentable building area, and the second has 20,670 sq ft of rentable building area. The warehouses are located on an 8.91 acre site in South Foothills. The site coverage ratio is 7.88. The property is used as a trucking depot.

**Issues: (as indicated on the complaint form)**

1. There exists a sale on the subject that is the best indicator of value before adjustment for time.

**Complainant's Requested Value:** \$3,760,000

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

The Board notes that an appendix to the complaint form contains several statements as to why the subject property's assessment is incorrect; however, the Board will only address those issues that were raised at the hearing.

**There exists a sale on the subject that is the best indicator of value before adjustment for time.**

The Complainant indicated that there was a sale of the subject property that occurred in November 2007 for \$4,000,000 (Exhibit C1 page 21). He requested a reduction based on the sale price with a TASP of 6% to reflect the downward turn in the market since the time of sale. He also submitted a Municipal Government Board decision for the subject property's 2009 assessment in which the Board reduced its assessment to the sale price (Exhibit C1 page 20). He also indicated that the City used the sale of the subject property in its valuation model for 2010 (Exhibit C1 page 32).

The Respondent reviewed ss.1(k) and 2 of *Matters Relating to Assessment and Taxation Regulation* AR 220/2004 (Exhibit R1 page 4). He submitted that the assessor would consider all sales in the Foothills area of similar properties to arrive at the assessment, and not just rely on the sale of the

subject property. He submitted that one sale does not constitute market value, and in this case, the sale of the subject property is an outlier. The Respondent submitted that the median of the sales comparables is \$171 psf which supports the assessed rate of \$179 psf for the subject property.

The Board finds that the Respondent failed to present any evidence which would indicate that this sale is not indicative of the market value of the property. He provided several sales comparables that ranged from \$110 to \$230 psf with a median of \$171 psf to indicate that the subject property is assessed correctly at \$179 psf for the two buildings combined (Exhibit R1 page 16). The Respondent's unadjusted sales comparables provided little assistance to the Board because it was impossible to establish any relationship between the subject property and each of the sales. The median of such a wide range of property values, reflective of significantly differing properties, does not establish market value for the subject property. As such, the Board finds that the best indication of market value is the sale of the subject property. In the Board's opinion, the sale is valid as it occurred within the valuation period, it was time adjusted and it was further validated by the City using it in their valuation model.

In the Complainant's closing remarks, he argued that it is the assessor who is bound by mass appraisal, and not the Board. The Respondent argued that both the assessor and the Board are bound by mass appraisal. Decisions of an Assessment Review Board are set out in section 467 of the *Municipal Government Act*. Section 467(3) states:

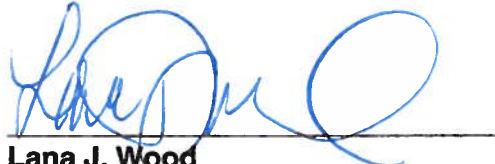
- (3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration
- (a) the valuation and other standards set out in the regulations,
  - (b) the procedures set out in the regulations, and
  - (c) the assessments of similar property or businesses in the same municipality.

The Board finds that the legislation clearly requires an Assessment Review Board to take into consideration the valuation and other standards and procedures set out in the regulations which would include *Matters Relating to Assessment and Taxation Regulation* AR 220/2004.

**Board's Decision:**

The decision of the Board is to reduce the 2010 assessment for the subject property from \$6,140,000 to \$3,760,000 (truncated).

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



**Lana J. Wood**  
**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.*