

**CITY OF CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

**Between:**

**ALTUS GROUP LTD., Complainant**

**and**

**THE CITY OF CALGARY, Respondent**

**Before:**

***J. KRYSA, Presiding Officer  
M. PETERS, Member  
T. USSELMAN, Member***

A hearing was convened on August 24, 2010 in Boardroom 12, at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the 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>040002701</b>
<b>LOCATION ADDRESS:</b>	<b>11 Bowridge Drive NW</b>
<b>HEARING NUMBER:</b>	<b>57689</b>
<b>ASSESSMENT:</b>	<b>\$1,510,000</b>

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

The subject property is a 36,047 square foot (sq.ft.) parcel of C-COR 3 (Commercial Corridor 3) land improved with two residential structures 1,874 and 2,880 sq.ft. in area, constructed in 1993 and 1999 respectively, and occupied for commercial retail purposes, with an effective building to land ratio of 13.2%. The subject property has exposure to, and indirect access from the Trans-Canada highway, and has been assessed as vacant commercial land.

**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

There were no procedural or jurisdictional matters raised by the parties.

**PART C: MATTERS / ISSUES**

The Complainant raised the following matters in section 4 of the complaint form:

- 3. an assessment amount
- 4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter number 3, an assessment amount.

The Complainant set out 18 reasons for complaint in Section 5 of the Complaint form, however at the hearing the Complainant stated the following issues remained in dispute:

Issue 1: The current improvement and use is the highest and best use of the site [C1 pg 3].

Issue 2: The current assessment is neither fair nor equitable [C1 pg 3].

Issue 3: Based on the income approach to value, a assessment of \$880,000 is the best indicator of value [C1 pg 3].

Issue 4: If were to value as vacant land, an assessment value of \$720,940 is equitable and fair [C1 pg3].

The Complainant argued that the subject property would be most appropriately valued by the income approach to value, and requested an assessment of \$880,000.

**Issue 1:** The current improvement and use is the highest and best use of the site [C1 pg 3].

**Decision – Issue 1**

The Board finds that there was insufficient relevant evidence provided by the Complainant to demonstrate that the current improvement and use is the highest and best use of the site.

Although the Complainant argued that the current development represents the highest and best use of the subject property, the Complainant failed to submit any direct market evidence in support of that position. Without market evidence to establish the value of the land as though vacant, and market evidence to establish a proper income valuation of the current improvements, the Board is unable to determine the highest and best use of the site. As that issue forms the premise of the complaint, the Board finds that the Complainant has not established a *prima facie* case in this instance.

**Issue 2:** The current assessment is neither fair nor equitable [C1 pg 3].

The Complainant submitted the total assessments of nine properties in the vicinity of the subject to demonstrate that the subject is inequitably assessed. The parcel size of the comparables range from 54,898 to 298,238 sq.ft. and exhibit a range of assessments from \$12.69 to \$38.98 per sq.ft. of land area, in contrast to the subject assessment of \$41.89 per sq.ft. The average and median of the comparables was \$19.56 and \$19.91 per sq.ft. respectively. The range of assessments from \$50.96 to \$187.47 per sq.ft. of improvement area was also provided in comparison to the subject assessment of \$317.63 per sq.ft. of building area [C1 pg 32-51].

### **Decision – Issue 2**

The Board finds that there was insufficient evidence to prove the subject is assessed inequitably in relation to other properties.

The Board finds that the Complainant's equity comparables are not similar to the subject property and as a result, do not demonstrate that an inequity exists. Excluding comparable number 1, the parcel size of the comparable properties range from 320% to 830% of the size of the subject property, some the properties have different zoning classifications, and most do not have similar exposure to the Trans-Canada highway as the subject. Further, comparables number 6 and 8, although both vacant, have significant topography issues that would be reflected in lower unit values, and make them dissimilar to the subject property.

With respect to comparable number 1, the Board finds that although the parcel size is 52% larger than the subject, it is assessed at a unit rate within 7% of the unit rate assigned to the subject property. This would appear to be appropriate in accordance with the principle of economy of scale, and therefore does not illustrate that an inequity exists.

**Issue 3:** Base on the income approach to value, a assessment of \$880,000 is the best indicator of value [C1 pg 3].

The Complainant submitted an income approach to value for the subject property. A market rent coefficient of \$16.00 per sq.ft. was applied to the total area of the improvements, and after applying allowances of 4% for vacancy and 1% for non-recoverable expenses, and an \$8.00 per sq.ft. deduction for vacancy shortfall, the net operating income was capitalized at a rate of 8% to arrive at an estimate of value of \$880,000 [C1 pg 21].

The Respondent argued that as the income approach to value, as derived from the current improvements on the site did not establish a value in excess of that of the underlying land as though vacant, the current use therefore, does not represent the highest and best use of the land, and therefore is irrelevant.

### **Decision – Issue 3**

The Board finds that there was insufficient evidence to support a value as determined by the income approach.

The Board finds that there was no market evidence provided by the Complainant to support the \$16.00 rent rate, the 8% capitalization rate, or any of the applied allowances or deductions relied upon in the Complainant's calculation.

**Issue 4:** If were to value as vacant land, an assessment value of \$720,940 is equitable and fair [C1 pg 3].

The Complainant argued that based on the average and median of the equity comparables referenced in issue 2 above, at \$19.56 and \$19.91 per sq.ft. respectively, a rate of \$20.00 per sq.ft. applied to the subject's 36,047 square feet of land area is equitable and fair.

#### **Decision – Issue 4**

The Board finds that there was insufficient market evidence to establish a (vacant) land value of \$720,940, and insufficient relevant evidence to demonstrate that a rate of \$20.00 per sq.ft. would be equitable and fair.

There was no market evidence in support of the \$871,200 per acre unit rate required to establish an assessment of \$720,940 for the 0.827 acre subject property.

The equity comparables presented by the Complainant and referenced in issue 2, are not similar to the subject property for the reasons stated in the decision for issue 2, therefore a rate approximating the average and median unit rates of those dissimilar properties, does not establish an equitable vacant land value for the subject property.

#### **PART D: FINAL DECISION**

The assessment is confirmed at \$1,510,000.

Dated at the City of Calgary in the Province of Alberta, this 6 day of October, 2010.



J. Krysa

Presiding Officer

**APPENDIX "A"****DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

<b>NO.</b>	<b>ITEM</b>
1.	Exhibit C1 Complainant's Evidence
2.	Exhibit R1 Respondent's Evidence
3.	Exhibit C3 Complainant's Rebuttal Evidence

**APPENDIX 'B'****ORAL REPRESENTATIONS**

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1. D. Mewha	Representative of the Complainant
2. K. Moore	Representative of the Respondent

*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.*