

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against the Property assessments as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

Altus Group Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, Presiding Officer
K. Coolidge, Board Member
D. Pollard, Board Member***

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

ROLL NUMBERS:	201314945 & 201314952
LOCATION ADDRESSES:	300, & 400, 5126 – 126 Avenue SE, Calgary AB
HEARING NUMBERS:	56060 & 56061
ASSESSMENTS:	\$1,190,000 & \$1,090,000

These complaints were heard as a single complaint on the 18th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- D. Mewha

Appeared on behalf of the Respondent:

- K. Gardiner

Property Description:

Two adjoining vacant industrial lots on the north side of 126 Avenue SE in the East Shepard Industrial district of southeast Calgary. Lot sizes are 1.48 acres and 1.16 acres, respectively.

The lots were assessed using a direct sales comparison approach. The basis of the assessments was \$1,050,000 for the first 1.0 acre of a lot and \$300,000 per acre for any acreage over 1.0 acre. This formula produced assessments of \$945,645 per acre for the smaller 1.16 acre lot and \$806,297 per acre for the larger 1.48 acre lot.

Issues:

The Complainant raised the following matters in section 4 of the complaint form: *Assessment amount (No. 3 on form) and Assessment class (No. 4 on form).*

The Complainant also raised the following specific issues in section 5 of the Complaint form:

- The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004
- The use, quality, and physical condition attributed by the municipality to the subject property is incorrect, inequitable and does not satisfy the requirement of Section 289(2) of the Municipal Government Act
- The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts
- The aggregate assessment per acre applied to the subject property does not reflect market value for assessment purposes when using the direct sales comparison approach and should be \$550,000/acre
- The aggregate assessment per acre applied is inequitable with the assessments of similar and competing properties and should be \$550,000/acre

At this hearing, the Complainant focused evidence on the market value of the land. While not stated as an issue, the Complainant questioned the reason for increases from the \$640,000 per acre 2009 assessments of the lots.

Complainant's Requested Value:

300, 5126 – 126 Avenue SE:	\$917,600
400, 5126 – 126 Avenue SE:	\$719,200

Board's Decision in Respect of the Issue:

The Complainant provided a table of data on five industrial lot sales. Four of the sales were in Dufferin Industrial and the fifth was in South Foothills. Lot areas ranged from 1.30 to 1.82 acres. Sales occurred between July 2008 and June 2009 at prices from \$560,694 to \$625,000 per acre. From the sales, the Complainant settled on a rate of \$620,000 per acre.

Decision 0533/2010-P of the Calgary Assessment Review Board was submitted in support of the requested assessment change. That decision was in regard to a complaint against an assessment of a 0.45 acre lot in a southeast Calgary industrial park. A highlighted portion of the decision stated:

"The Board finds that the sales comparables submitted by the Complainant support the requested base rate of \$620,000 per acre for the subject parcel. The sales comparables are similar in size and location and have a median sale price of \$619,231. Further, the requested base rate value of \$620,000 falls within the range of time adjusted sale prices for vacant land parcels that have no site specific influences which were submitted by the Respondent."

A table of land sales in the Respondent's evidence detailed four land sales, including the one in South Foothills that had been used by the Complainant (at \$619,707 per acre). One other sale was from the Highfield industrial area in the Central industrial region of the city. The remaining two sales were from Valleyfield, a business/industrial park located north of Foothills Industrial. The Highfield sale, involving a 0.96 acre lot, indicated a time adjusted price of \$1,406,250 per acre (the title transferred in June 2008). One of the Valleyfield sales was a 0.56 acre lot that transferred in June 2008. The time adjusted price indicated \$1,254,480 per acre. The other Valleyfield sale was a 1.47 acre lot that sold in January 2008 and which had a time adjusted price of \$840,382 per acre. The median price from these four sales was \$1,047,431 per acre.

For all southeast industrial areas, except for Dufferin, the City uses a land rate of \$1,050,000 for the first acre of a site and \$300,000 per acre for the balance of the site if it is over 1.0 acre in size.

A second table of sales data for four properties was intended to show land values for parcels of less than 1.0 acre in size. Included were the Highfield sale and the smaller Valleyfield sale. Two others were from northeast Calgary industrial parks. These prices ranged from \$1,089,450 to \$1,693,023 per acre. The assessor did not elaborate on any relationships of any of these sales to the subject.

A large table of Dufferin land sales provided data on 17 lots from 0.865 acre to 9.503 acres that had sold between July 2007 and December 2008. Time adjusted prices per acre for these sales were from \$524,834 to \$768,180. The Respondent concluded from the sales data that Dufferin is an atypical industrial subdivision for some reason. The fact that there was an abundance of sales in Dufferin but no sales in the subject area was an indicator that Dufferin was different than other industrial areas.

Findings

In view of the above considerations, the Composite Assessment Review Board (CARB) finds as follows with respect to the Issue:

The Respondent argued that the abundance of sales in Dufferin was an indicator that the area was different than other southeast industrial parks. There were no sales in industrial parks near the subject. Therefore, the best sales evidence came from the two Valleyfield and the Highfield sales.

The Complainant argued that there were many sales in Dufferin because that is where the available land was located.

The CARB recognizes that there was a shortage of industrial land sales in the period leading up to the July 1, 2009 valuation date. There was concern that three of the Respondent's four sales had occurred prior to the July 1, 2008 valuation date for the 2009 assessment and that assessment had been based on \$640,000 per acre. Now, for 2010, the same sales are used, along with one other at \$619,707 per acre (December 2008) to support an assessment based on \$1,050,000 for the first 1.0 acre of a parcel. The CARB received no logical argument for this change.

The CARB does not accept the Respondent's argument that Dufferin is a unique area characterized by sales at low prices. Dufferin is the area where land was available during 2008-2009 and the sales that took place there can be compared to other industrial areas in the southeast industrial region.

Board's Decision:

The 2010 assessments of the two lots subject to this complaint are reduced as follows:

300, 5126 – 126 Avenue SE	Roll 201314945	\$917,500
400, 5126 – 126 Avenue SE	Roll 201314952	\$719,000

DATED AT THE CITY OF CALGARY THIS 23 DAY OF SEPTEMBER 2010.



W. Kipp
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.*