

**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-26.1, 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***

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:

ROLL NUMBERS:	201130606
LOCATION ADDRESSES:	4807 – 112 Avenue SE, Calgary AB
HEARING NUMBERS:	59872
ASSESSMENTS:	\$3,960,000

This complaint was heard 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:

A vacant industrial lot in the Dufferin Industrial district of southeast Calgary. Lot size is 6.40 acres.

The lot was assessed using a direct sales comparison approach. The basis of the assessment was \$620,000 per acre. This produced an assessment of \$3,960,000 for the 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 is inequitable with the assessments of similar and competing properties and should be \$417,000/acre
- 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

At this hearing, the Complainant focused evidence and argument on the matter of equity in the assessment of this land when compared to assessments of other land. Part of the argument was questioning the reason for increase from the \$575,000 per acre rate for 2009 assessments of lots in Dufferin. Further, assessments on comparable properties had a year over year decline of 24-28% while the subject assessment increased by 8%.

Complainant's Requested Value:

\$2,670,000

Board's Decision in Respect of the Issue:

The Complainant provided a table of data on seven industrial lot assessments. None of the comparables were in Dufferin Industrial. All of the comparables were located in other southeast Calgary industrial parks – Valleyfield, East Shepard Industrial, Shepard Industrial, Great Plains and Foothills. Lot areas ranged from 3.8 to 7.71 acres. All were designated I-G Industrial General except for the Shepard Industrial property which was I-B Industrial Business. 2010 assessments ranged from a low of \$397,354 per acre to a high of \$496,063 per acre with median and mean averages of \$446,880 and \$452,802 per acre, respectively. 2010 assessments were compared to 2009 assessments. All assessments except for the I-B lot went down by 8% to 50% (median and average of -28% and -24%). Based on this table, the Complainant requested a reduction of 27% for the subject, representing a 2010 rate of \$417,188 per acre for the 6.4 acre lot. This would be the average rate per acre if the \$1,050,000/\$300,000 formula (see below) is applied to the subject 6.4 acre parcel.

Dufferin industrial lots are assessed for 2010 at a constant rate of \$620,000 per acre, regardless of parcel size. This, in the opinion of the Complainant, leads to inequities for parcels of certain sizes. The current assessment methodology used by the Respondent implies that smaller Dufferin lots are inferior to similar lots in other areas whereas larger lots are superior to similar ones in the other industrial areas.

The Complainant concurred that sales of land in Dufferin indicated prices at or around \$620,000 per acre and that the 2010 assessment was based on those sales. The inequity arises when Dufferin lots are compared to lots in the other southeast industrial areas where the assessment is based on a different formula. It was pointed out that the 2009 assessment rates were similar for all southeast industrial, including that in Dufferin.

A table in the Respondent's evidence detailed the land rates that formed the basis of the 2010 industrial land assessments. Fully serviced industrial land in all southeast Calgary subdivisions, other than Dufferin, is assessed at \$1,050,000 for the first one acre of the parcel. Any acreage over 1.0 acre is added at a rate of \$300,000 per acre. Dufferin, the only exception to the above formula application, is assessed at a flat \$620,000 per acre, regardless of parcel size. The table shows that the same rates apply to I-G and I-B land in any area.

It was explained that land sales in Dufferin do not follow the principle of diminishing returns (sometimes stated as "economies of scale") whereas sales in other areas do exhibit declining prices per acre as parcel size increases. Some sales of lots in Dufferin, ranging in size from 1.819 acres to 5.951 acres were included and the median of those sales supported the \$620,000 rate.

A table of assessment data for six Dufferin land properties showed that the land rate was consistent at \$620,000 per acre even though parcel sizes varied from 2.27 acres to 5.92 acres.

The Respondent did not deal with the year over year percentage changes in assessments other than to state that the changes came about as a result of the change in methodology employed by Calgary assessors for 2010.

Findings

In view of the above considerations, the CARB finds as follows with respect to the Issue:

The CARB does not put weight on year over year changes in assessments except when an analysis supports other evidence.

Essentially, the decision in this matter relates to assessment methodology. Is the flat rate per acre (as applied in Dufferin) a better method than the \$1,050,000/\$300,000 method applied in all other southeast industrial areas? This question can only be answered with reference to market sales activity, however, market value is not an issue in this complaint so there is no evidence of market values in the southeast region.

Having regard to equity, the subject property is assessed in an equitable manner compared to other Dufferin industrial land assessments. It may not be equitable when compared to assessments of comparable lands in other areas. Dufferin is a large industrial area so there are many properties that are assessed in the same manner as the subject. The CARB has no evidence before it that indicates that the assessment method employed in Dufferin is incorrect.

Board's Decision:

The 2010 assessment of the subject lot is confirmed at \$3,960,000.

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.*