

**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:

***Board Chair, T. Golden
Board Member, R. Deschaine
Board Member, K. Farn***

This is a complaint to the Calgary Assessment Review Board in respect of Property/Business assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 130151004

LOCATION ADDRESS: 9915 Bonaventure Dr. SE

HEARING NUMBER: 59217

ASSESSMENT: \$1,050,000.00

This complaint was heard on 17 day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *A. Izard*

Appeared on behalf of the Respondent:

- E. Daltorio

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

There were no preliminary matters.

Property Description:

The subject property is a freestanding gas bar located on 3.72 acres of land. Most of the land is a parking lot providing parking to a Canadian Tire store on an adjacent lot. The main store has only limited parking on the site and relies on this lot to provide customer parking and the gas bar occupies a small portion of the land.

Issues:

- 1) The main issue to be considered by the Board is the equity of the assessment as compared to similar uses. Two subordinate issues relate to the main issue; firstly whether the cost approach to assessment is the appropriate method to be used to determine an equitable assessment and secondly should the gas bar be considered as part of the adjacent Canadian Tire store and then be assessed using the income approach in accordance with the Respondent assessment policy.
- 2) If the cost approach is the appropriate method to be used for developing the assessment, then which factors are appropriate to use in the calculation?

Complainant's Requested Value:

Based on an income approach the complainant requests the assessment to be \$530,000.00

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

- 1) The assessment is not equitable when compared to similar uses in the area. Using the cost approach to assessment, as has been used by the Respondent yields an inequitable assessment of the subject property. An income approach has been used by the Respondent in other similar properties and is applicable in this case. This property in the opinion of the board is linked to the main store and in accordance with the Respondents policies should be assessed using the income approach. A reduction in assessment is

warranted.

The Complainant focused on the equity argument by presenting a series of comparables consisting of similar gas bars. Each comparable was argued to be similar in use and situation with the main difference being that the comparables were deemed by the Respondent to be closely related to a larger commercial use and therefore had the income approach used. For example a Canadian Tire gas bar adjacent to the store or a similar Safeway gas bar located in the parking area of the grocery store. In these cases an income approach was used to calculate the assessment. Also in each case the assessment for the comparables were considerably lower than the assessment on the subject. The Complainant cast doubt on the comparables used by the Respondent to support the assessment especially the properties on Horton Rd. and the Beltline.

The complainant suggested that the subject site was linked to, and inseparable from the main store on the adjacent lot as it is the only customer parking available. Both properties are owned by Canadian Tire and operate as a unit. Given this the Respondent should have, in the opinion of the Complainant, implemented the policy to assess the land using the income approach.

The Respondent discussed the policy of assessing gas bars differently depending on the relationship with a larger store or freestanding operations. In the case the subject is on a separate title and therefore considered freestanding and the policy requires the cost approach to be used.

In discussing the cost approach the Respondent suggested that a land sale on Horton Rd. and some Beltline sales were given weight when developing a land value for the cost approach.

The board agrees with the Complainant that the assessment is inequitable and should be assessed using the income approach. In the opinion of the Board the subject property is linked to the main store and the income approach is applicable given the policy of the respondent. This is a Canadian Tire gas bar on a Canadian Tire commercial site.

In addition the Board agrees with the Complainant that there are many examples of other similar gas bars assessed using the income approach and receiving a considerably lower assessment.

Finally the comparables that the Respondent used to develop and support the assessment were given little weight in the decision.

- 2) The factors to be used in the income approach should be the same as those applied to other similar facilities in the City.

The complainant provided a series of comparables that had been assessed on the income approach using a series of inputs developed by the City for other cases including:

- PGI \$45,000.00
- vacancy 4%
- non recoverable 1%
- cap rate 8.00%

Applying these values the result is the requested assessment of \$530,000.00. These values were not disputed and were therefore accepted as reasonable in this case.

Board's Decision:

The assessment is set at \$530,000.00

DATED AT THE CITY OF CALGARY THIS 19 DAY OF October 2010.



**Tom Golden
Presiding Officer**

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

NO.	ITEM
1.	Exhibit C-1 Letter of Complaint
2.	Exhibit C-2 Complainants Evidence Brief
3.	Exhibit C-3 Complainants Rebuttal Submission
4.	Exhibit C-4 Submission of ARB decision 1358/2010-P
5.	Exhibit C-5 Submission of ARB decision 1356/2010-P
6.	Exhibit R-1 Respondent's Assessment Brief

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.*