

**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, Section 460(4).

**between:**

***Altus Group, COMPLAINANT***

**and**

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

**before:**

***D Trueman, PRESIDING OFFICER***

***J Rankin, Board Member***

***I Fraser, Board 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: 067247106**

**LOCATION ADDRESS: 1030 – 10 Avenue SW**

**HEARING NUMBER: 56262**

**ASSESSMENT: \$5,540,000**

This complaint was heard on 17th day of September, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Brock Ryan, Lorie Waslen*

Appeared on behalf of the Respondent:

- *D Lidgrin*

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

There was an observer, Eldon Morrison, present at the hearing and neither the Complainant nor Respondent objected to his presence. Otherwise, there were no preliminary, procedural or jurisdictional matters before this hearing

**Property Description:**

The subject property is a single-story structure containing 3,680 ft.<sup>2</sup> of rentable area and situated on a land base of 30,350 ft.<sup>2</sup>. It was purchased by its current owners in approximately 1994 and converted to an NHSF (non-surgical hospital facility) which is known as the Plastic Surgery Center. The zoning designation is "Center City Mixed Use District".

**Issues:**

The City has assessed the subject property based upon the value of its land base given that in the opinion of the City it is a redevelopment property. In order to decide the correct assessment the board will have to examine whether or not the City:

**Issue #1**

Correctly assessed based on the redevelopment of the land, due to absence of demand and current economic conditions.

**Issue #2**

The City correctly discounted for the presence of a unique characteristic of the railroad tracks at the rear of the property.

**Complainant's Requested Value:**

\$4,550,000

**Complainant's position with respect to issues**

**Issue #1**

The Complainant testified that as a result of the economic meltdown that has occurred over the past roughly two years and as well in consideration of the abundance of competitive development opportunities in the neighbourhood the subject property is virtually undevelopable. He says that therefore the subject property market value should be based on its current ability to earn income given the rentable area of the improvements. Using income and expense rates

accepted by the City for income producing properties in the area he proposed a value of \$830,000 for the subject property.

#### Issue #2

With respect to the railroad tracks at the rear of the subject property the Complainant testified that train locomotives typically park on the tracks at the rear of the subject property. He said that while they are parked there, the large diesel engines continue to run and noise pollution as well as soot from the engines is emitted onto the subject property. He said that the duration of their parking is so extensive that train crews change shifts during this period and further evidence of this is found in the fact that crewmembers park their vehicles in the parking lot of the subject property. He said that in the alternative to an income approach, valuation of the property should be based upon a comparable sales chart which he presented outlining several sales. In his opinion the market value range for the land as indicated by these sales was between \$114 and \$168 per square foot. This would result in a value range for the subject property based upon land value of between \$3.5 million and \$5.1 million roughly.

#### Respondent's position with respect to issues

##### Issue #1

The City Assessor testified that all improved properties in the beltline neighbourhood were examined based upon both their land value and their income producing value. Once it is established that their land value exceeds that of the income producing potential of the existing improvements then they are uniformly assessed according to their land values. To this end the Assessor presented a chart of 2008 and 2009 sales which were similarly zoned, although smaller, in the same general size range and more particularly four of which were located along 10<sup>th</sup> and 11<sup>th</sup> avenues. After adjustments the median indicated value on a per square foot basis for these sites was \$221. It should be noted that one of these sales was post-facto (sale date subsequent to July 1 2009) which at September 2009 however, closely supported the above median at 222 Dollars per Sq. foot. The Respondent presented a second package of material identified as R2 and which were a series of recent CARB decisions that confirmed land value based beltline appeal decisions.

##### Issue #2

The Assessor testified that a -15% adjustment was made for trackage influence. He acknowledged that this adjustment was appropriate for the subject property and that all of his comparables sales had been considered accordingly. The Assessor acknowledged that the unique circumstance of train locomotives parking behind the subject property was unique to the subject property but he did not know how to adjust for this feature. On questioning, with respect to the Assessor's standard -20% adjustment for contamination issues, the Assessor advised that this adjustment was for soil contamination which had been proven by a recognized environmental assessment report. Under these circumstances he was reluctant to apply the 20% adjustment to the noise and air pollution which he understood to be a factor.

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

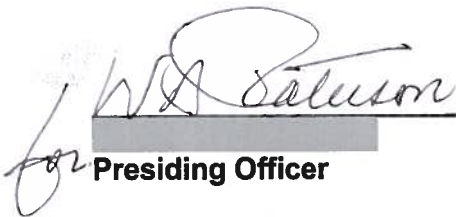
The Board acknowledges that the subject property has a unique and negative influence by way of the train locomotives which regularly park behind the subject property. The Board recognizes that this is likely the result of the nearby railroad surface crossing of City arterial thoroughfares. With respect to issue #1 the Board recognizes that the City procedure for determining highest and best use is appropriate. With respect to issue #2 the board sought to analyze sales

comparables presented by both parties in order to determine an appropriate discount for the above mentioned negative noise and air pollution. It was determined that the Complainant comparable sales were dated, zoned industrial, small and out of the market area. Otherwise there were redevelopment properties that would support the City assessment. With respect to the Respondent's sales, on analysis it was discovered that there were a variety of circumstances such as nonmarket financing terms that could have raised doubts but which were not well enough detailed. Upon analyzing the Respondent chart of equity comparables, and more particularly those properties which were assessed as redevelopment properties, it was discovered that after adjustments the subject property was at the lower end of the assessment range for similar properties. The Board did not find the City's exhibit R 2 instructive as none of these decisions dealt with unique, i.e. railroad locomotive parking, locational characteristics. The Board is sympathetic with the value loss that it believes to be present in the form of economic obsolescence applicable to the subject site. Nevertheless, there has been no direct evidence presented by the Complainant that would quantify this loss. Theoretically, once a hypothetical building were constructed, the rent loss attributable to the negative effect of the locomotive parking should be capitalized and deducted. The Board were unable to determine a rent loss value from any of the comparable sales presented and given that the onus lies with the Complainant to prove the rent loss the board must therefore accept the evidence of the Respondent.

**Board's Decision:**

The appeal is denied and the assessment is confirmed at \$5,540,000.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF September 2010.

  
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for 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.*