

**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, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, Presiding Officer

J. Massey, Board Member

D. Steele, 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 NUMBER: 201378130

LOCATION ADDRESS: 40 Technology Way SE, Calgary AB

HEARING NUMBER: 59860

ASSESSMENT: \$6,730,000

This complaint was heard on the 31st day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- D. Mewha

Appeared on behalf of the Respondent:

- J. Lepine

Property Description:

The subject property is a partially constructed industrial building, described as a freight facility on an 8.78 acre lot in the Walton/Shepard Industrial district of southeast Calgary. This industrial park is located on the east side of 84 Street SE, north of 114 Avenue SE. As at the condition date of December 31, 2009, the building was only partially complete. None of the evidence before the Board provided any floor area or construction detail data.

Issues:

The Complainant raised the following matters in section 4 of the complaint form:
Assessment amount (No. 3 on the form) and Assessment class (No. 4 on the 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 information requested from the municipality pursuant to Section 299 or 300 of the Municipal Government Act was not provided.*
- *The assessment of the subject property is in excess of its market value for assessment purposes when using the direct sales comparison approach. The land rate should be \$240,000/acre.*
- *The city has overestimated the value of the improvements. The improvement value is too high. The assessment should reflect no more than 50% PD value.*

At the hearing, the Complainant focused evidence and argument on the last two issues in the above list and on a sale of the partially complete property that closed in June 2010.

Complainant's Requested Value:

\$4,303,949

Board's Decision in Respect of the Issues:

The Complainant's evidence contained copies of documentation pertaining to a sale of the partially completed property.

The original purchaser of the land was developing a freight handling facility on the land but ran into financial difficulties when the project was only partially finished. A sale of the property was arranged and that sale closed in June 2010 but since the property had undergone no changes after December 31, 2009, the details of the property and sale transaction were considered relevant for assessment purposes.

The Complainant had requested that the land assessment be reduced from a rate of \$290,000 per acre to \$240,000 per acre and there was land sales evidence to support that request. Further, the contractor's documentation indicated that the building was 42% complete at the time of the property sale.

Sale documents showed that the final price of the property was \$4,868,323, after tax adjustments and the assignment of a performance deposit payable to the land developer.

The Respondent had assessed the property by estimating the land value and then adding 90% of the value that had been shown on the building permit application.

After reviewing the evidence of the Complainant regarding the property sale, the Respondent conceded that the sale price would be a more accurate reflection of the property value as at the condition date.

Findings

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

The documentation regarding the sale of the subject property along with documents from the building contractor and correspondence from the property purchaser were persuasive and the Board accepted the sale price of the partially completed property as being the best evidence of market value for the 2010 tax year.

Board's Decision:

The subject property assessment is reduced from \$6,730,000 to \$4,860,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF October 2010.



W. Kipp
Presiding Officer

SUMMARY OF EXHIBITS

Exhibit

C1	Assessment Review Board Complaint Form
C2	Complainant's Evidence Submission
C3	MGB Decision 088/10 (Rebuttal Evidence)
R1	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.*