

**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
J. Massey, Board Member
D. Steele, Board Member***

This is a complaint 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, LOCATION ADDRESSES and 2010 ASSESSMENTS:

201116829	10912 – 72 St SE	\$1,290,000
201116837	10956 – 72 St SE	\$830,000
201116845	10978 – 72 St SE	\$830,000
201116852	11000 – 72 St SE	\$830,000
201116860	11024 – 72 St SE	\$830,000
201116878	11048 – 72 St SE	\$830,000
201116886	11072 – 72 St SE	\$830,000
201116894	11096 – 72 St SE	\$1,100,000
201116902	11097 – 74 St SE	\$882,000
201116910	11075 – 74 St SE	\$840,500
201116928	11053 – 74 St SE	\$840,500
201116936	11031 – 74 St SE	\$840,500
201116944	11009 – 74 St SE	\$843,000
201116951	10991 – 74 St SE	\$843,000
201116969	10973 – 74 St SE	\$843,000
201116977	10955 – 74 St SE	\$843,000
201116985	10919 – 74 St SE	\$1,300,000

HEARING NUMBER: 59029

This complaint was heard on the 30th 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:

This complaint pertains to the 2010 assessments on 17 serviced industrial lots in a new industrial park, known as Canals Industrial, located in the southeast industrial sector of Calgary. All of the lots are designated I-G Industrial General. Most of the lots are 0.79 or 0.8 acre in size but four are larger at 0.84, 1.22, 1.61 and 1.64 acres. There were no buildings on any of the lots as at the valuation and condition dates. Access to the subdivision is via 68th Street and 108th Avenue SE.

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 assessment of the subject property is in excess of its market value for assessment purposes.*
- *The influence adjustment factors applied to the assessment, have been inequitably applied to the base rate.*
- *The land value is not reflective of market sales evidence.*
- *The subject lands are assessed significantly in excess of their recently transacted price.*

At this hearing, the Complainant focused on three points:

1. Market value,
2. Equity, and
3. Year over year assessment increase

Complainant's Requested Value:

\$553,000 per acre for each lot

Board's Decision in Respect of Each Issue:**Issue 1: Market Value**

The assessments for the 17 lots range from a low of \$792,683 to a high of \$1,053,750 per acre of lot area. The Complainant argued that there should be a single rate that is much lower than the assessment rates. Some of the subject lots have an increment for corner location which is not borne out by market evidence.

This subdivision is new. It is in an area of the larger East Shepard industrial area that does not have multiple points of access and egress. The only access route is south on 68th Street SE from Glenmore Trail and then east along 108th Avenue SE. There are no access routes from the east or south. This is a shortcoming when compared to other nearby industrial areas such as the adjoining Dufferin Industrial or Eastlake, which have numerous access routes.

In July 2007, the subject 17 lots were sold to a single purchaser for a price that represented \$545,000 per acre. A 1.73 acre lot in the same subdivision sold in June 2009 at \$560,694 per acre. Four lots in the adjoining Dufferin Industrial sold at prices from \$602,000 per acre (2.16 acres) to \$625,000 per acre (1.58 acres). Three large parcels (22.61, 25.07 and 29.75 acres) sold between July 2007 and January 2008 at prices from \$286,200 to \$374,000 per acre. The 25.07 acre site that sold at \$374,000 per acre adjoins the north side of the subject block of lots.

A table in the Respondent's evidence set out details on three lot sales. Sizes ranged from 0.558 acre to 1.466 acres. Locations were in Highfield (Central industrial region) and Valleyfield (north of Foothills Industrial). These three sales indicated prices from \$750,341 to \$1,350,000 per acre. When questioned, the Respondent confirmed that these were the only sales used to determine the \$1,050,000 per acre rate for southeast industrial land in all areas other than Dufferin and area ES4 (not fully serviced industrial land).

Another table set out information on three lots in Valleyfield. This table showed how prices per acre change as acreage increases. A 0.56 acre lot sold in June 2008 at \$1,254,480 per acre, a 1.47 acre lot sold in January 2008 at \$750,341 per acre and a 4.05 acre lot sold in April 2008 at \$432,099 per acre. A similar table set out data on three land sales in Bowness but the CARB rejected this data because it is neither industrial land nor in the same quadrant of the city as the subject lots.

Details of 17 Dufferin lot sales were provided by the Respondent. Sales occurred between July 2007 and December 2008. Lot sizes were from 0.865 acre to 9.503 acres. Time adjusted prices were from \$524,834 per acre (for the largest lot) to \$768,180 per acre (for a 1.68 acre lot). All Dufferin sales were rejected by the Respondent as not being representative of the market. Dufferin was a City of Calgary instigated industrial park and there were restrictions put on purchasers such as a 36 month building commitment, restrictive building design which limited exterior materials and colours, the requirement for paved parking and a prohibition on construction of outbuildings with no utility services. Further, because there were so many sales in Dufferin but none in other industrial areas, the marketing of Dufferin was more like an auction.

With all of this data at hand, the Respondent based serviced industrial land assessments in all of the southeast, with the sole exceptions of Dufferin and ES4, on a formula wherein the first 1.0 acre of a lot was valued at \$1,050,000 with any remaining land added at \$300,000 per acre.

The Complainant argued that the restrictions on Dufferin lots were not that uncommon and not restrictive enough to adversely affect prices. In addition, sales volume was significant in Dufferin because that is where the new lots were located. The only sales relied upon by the City were in areas that were superior to the subject. Responses to Complainant questions were that there was evidence to show variances in prices in different areas for the 2009 assessment but for 2010, there was no evidence. In the Respondent's opinion, all land in the southeast is trading at the same rate in 2010. The Respondent conceded that Highfield, where one of its comparables was located, was in a different region to the subject but would not concede that values were different from the Central region to the Southeast region because there was no evidence to show that.

With regard to the economies of scale example provided by the Respondent, the Complainant pointed out on copies of assessment detail sheets that the variances in prices for those three Valleyfield sales could be partially attributed to other influences and not solely to size difference as was opined by the Respondent. Lastly, the Respondent conceded that market values had not changed from 2009 to 2010, however, a change in the method of assessing land brought about much higher assessments in 2010.

Findings

In view of the above considerations, the CARB finds as follows with respect to Issue 1:

The CARB does not accept the Respondent's position that Dufferin land is not comparable to land in other southeast industrial parks. There was an abundance of sales in Dufferin because that is where the available land was located. Lots in Dufferin are not inferior to lots in other southeast industrial parks. As developer, The City of Calgary set the prices for Dufferin lots and that price level set the rate for all competing lots. There were no sales in some other parks because there were no lots available there. Dufferin land prices are more indicative of those in the adjacent subject Canals Industrial than those from other areas, particularly the Central region.

The subject 17 lots sold to a single purchaser at a price of \$545,000 per acre in July 2007, two years prior to the effective valuation date. While it was a sale of 17 individual lots, it was a "bulk" sale which typically implies a discount from the pricing on individual lots. One other lot sale, two lots totaling 1.727 acres, was questioned by the Respondent regarding its usefulness and was accordingly given little weight in this decision. The large block sales were of minimal relevance to the valuation of small lots.

Dufferin sales evidence supports lot valuations based on \$620,000 per acre. Given the location and characteristics of the subject lots, with particular attention to access, Dufferin might be considered a superior location, however, there was no evidence before the Board that could form the basis of an adjustment. The Board does not accept the Respondent's position on Dufferin comparability. When questioned, the Respondent stated that Dufferin land sales had been used in preparing the 2009 assessments for southeast industrial parks but they were not considered comparable for 2010. Yet, there were only three sales relied upon to determine the substantially higher acreage rate for 2010 and none of these were from the subject area. Further, the Respondent had stated that the industrial market had not changed from 2009 to 2010.

Issue 2: Equity and Issue 3: Year Over Year Assessment Increase

The Complainant provided a table of data on six land assessments. Some of these involved properties with substantial buildings but where the assessments were prepared using a Cost Approach wherein there was a separate land valuation. Parcel sizes varied from 3.8 acres to 7.71 acres and 2010 assessment rates were from \$397,354 to \$496,063 per acre. There was not much data to show comparability of these properties to the subject 17 lots, however, the Complainant focused on the percentage change in assessment rates from 2009. Rates per acre decreased for all six properties, from as little as 8% to as much as 50% with the median decrease at 31% and the average at 29%. All were I-G properties. The subject assessments had increased from 2009 by about 95%.

The Respondent did not address equity other than to state that all southeast industrial areas, other than Dufferin and ES4 were assessed on the same basis.

Findings

In view of the above considerations, the CARB finds as follows with respect to Issues 2 and 3:

There are concerns about the dollar amounts for the comparables provided by the Complainant and these were not adequately explained. The Respondent did not provide equity comparables. Analysis of year over year assessment changes can be relevant but it is typically considered along with other equity evidence which is lacking in this complaint. The CARB does not place weight on this equity argument.

Board's Decision:

On the grounds of the land sales data, the CARB finds that the 2010 assessments on the subject 17 lots are excessive and reduces them accordingly to amounts based on \$620,000 per acre.
(Note: Corner influences have been retained)

<u>Roll No.</u>	<u>Address</u>	<u>Acres</u>	<u>Orig. Ass't</u>	<u>CARB Ass't</u>
201116829	10912 – 72 St SE	1.61	\$1,290,000	\$1,040,000
201116837	10956 – 72 St SE	0.79	\$ 830,000	\$ 489,000
201116845	10978 – 72 St SE	0.79	\$ 830,000	\$ 489,000
201116852	11000 – 72 St SE	0.79	\$ 830,000	\$ 489,000
201116860	11024 – 72 St SE	0.79	\$ 830,000	\$ 489,000
201116878	11048 – 72 St SE	0.79	\$ 830,000	\$ 489,000
201116886	11072 – 72 St SE	0.79	\$ 830,000	\$ 489,000
201116894	11096 – 72 St SE	1.22	\$1,100,000	\$ 756,000
201116902	11097 – 74 St SE	0.84	\$ 882,000	\$ 520,000
201116910	11075 – 74 St SE	0.8	\$ 840,500	\$ 497,000
201116928	11053 – 74 St SE	0.8	\$ 840,500	\$ 497,000
201116936	11031 – 74 St SE	0.8	\$ 840,500	\$ 497,000
201116944	11009 – 74 St SE	0.8	\$ 843,000	\$ 497,000
201116951	10991 – 74 St SE	0.8	\$ 843,000	\$ 497,000
201116969	10973 – 74 St SE	0.8	\$ 843,000	\$ 497,000
201116977	10955 – 74 St SE	0.8	\$ 843,000	\$ 497,000
201116985	10919 – 74 St SE	1.64	\$1,300,000	\$1,060,000

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 Forms
C2	Complainant's Evidence Submission
R1	Respondent's Evidence Submission
C3	Complainant's Rebuttal Evidence

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.*