

**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 Ltd , COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Mowbrey, PRESIDING OFFICER

R. Deschaine, MEMBER

P. Grace, 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: 067233502

LOCATION ADDRESS: 1300 10 AV SW

HEARING NUMBER: 59656

ASSESSMENT: \$4,130,000

This complaint was heard on the 6th day of October, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- B. Neeson

Appeared on behalf of the Respondent:

- D. Lidgren

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

There were no procedural or jurisdictional matters identified.

Upon questioning by the Presiding Officer, the parties present indicated they had no objection to the composition of the Board. In addition, the Board indicated they had no bias on this file.

Property Description:

The subject property is a quality B+ grocery store located in the beltline number four economic zone and is assessed at \$215 per square foot for land base rate and a 5% corner lot influence for a total \$225 per square foot. The assessment is for \$4,130,000.

Issues:

1. Should the subject property be assessed using the income approach to value or on the highest and best use for the land?

Complainant's Requested Value:

The Complainant's requested value is \$3,195,000.

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

1. Should the subject property be assessed using the income approach to value or on the highest and best use for the land?

The Complainant stated that the subject property should be assessed in a fair and equitable manner with similar grocery store operations in the same economic zone. The Complainant argues that the assessment method should be on the income approach and not the direct sales comparison. The Complainant argues that the conclusion of the highest and best use of the subject property is as vacant land is in error. The conclusion ignores the important test of reasonably probable and there is no evidence of market demand for a change in the use of the site, given our current economic climate.

The Complainant advised the Board that the Respondent had amended the rental rate from \$24 per square foot to \$15 per square foot regarding the business assessment for 2010. The Complainant argued that the highest and best use of the land is as a grocery store.

The Complainant provided evidence to the Board showing three grocery store comparables that were assessed using the income approach methodology. The first comparable is the Calgary Co-Op store valued using an assessed \$15 per square foot rental rate. The value of the comparable using the income approach gives a \$135 per square foot for the property.

The second comparable is a Canada Safeway store using an assessed \$15 per square foot rental rate. The value of the comparable site as land only, using the income approach gives a \$62 per square foot for the property. The third comparable is another Canada Safeway store using an assessed \$15 per square foot. The value of the comparable site as land only, using the income approach gives a \$82 per square foot. (C-1 pages 16-25).

The Complainant stated that these three comparables clearly demonstrates that the subject property should be assessed as a grocery store, similar to those comparables in the similar economic zone.

The Complainant showed the Board, if the subject property was assessed at \$15 per square foot rental rate on the income approach methodology, the land value would be \$141 per square foot.

The Complainant stated that the MGB decisions had clearly stated that a typical market rental value for properties in the beltline were \$14 per square foot. (Exhibit C-1 page 46 and 55).

The Complainant showed the Board a Calgary Assessment Review Board decision that stated, "the ARB clearly concurs with the 2008 MGB decision that as an income producing retail property, the best method of valuation for property assessment would be the income approach." This decision was in reference to the Calgary Co-Op store. (Exhibit C-1 90-93).

The Respondent provided the Board with an equity chart that showed a number of similar properties in the beltline number four economic zone. (Exhibit R-1 pages 15/17).

The Respondent provided the Board with a chart detailing beltline commercial land sales from August 2008 to April 2009. The median selling price per square foot is \$233 and the mean selling price per square foot is \$270. The Respondent indicated the City used this study to determine the 2010 assessment rate of \$215 per square foot. The study also included a post facto sale (September 2009) that showed a selling price per square foot of \$222. (Exhibit R-1 page 20).

The Respondent pointed out to the Board that the Complainant's zoning allowed for a possible larger improvement on this site. The floor area ratio is five and that would allow for an improvement to be built in excess of 100,000 square feet. The bylaw indicates that it is possible and legally permissible and basically no restrictions including height. Additionally, the subject property is eligible for a bonus area, which would dramatically increase the footprint of a possible redevelopment of the site. (Exhibit R-1 pages 95 and 104).

The Respondent challenged the Complainant's three comparables. Regarding the two Canada Safeway stores, the Respondent advised the Board that the current designation was for a retail store only. Canada Safeway stores cannot build up and there are legal restrictions which does not make them comparable to the subject property. (Exhibit R-1 pages 109 and 111).

Regarding the Calgary Co-Op store, the Respondent admitted that the direct sales methodology applied to Calgary Co-op was appealed by the Complainant and overturned by both the ARB and the MGB. However, the Calgary Co-Op store has the same designation as the subject property and

it is legally permitted to construct a large building on the site, the same as the subject property. This in turn will increase the assessment of the Calgary Co-Op store. (Exhibit R-1 pages 125 and 129).

The Respondent provided the Board with a number of previous composite assessment review board decisions, that support the assessment. (R-1 pages 162-228).

The Board was persuaded by the Respondent's evidence regarding an equity chart that showed a number of similar properties compared to the subject property. In addition, the Board was persuaded by the Respondent's beltline commercial land sales from August 2008 to April 2009.

The Board was influenced by the designation of the Complainant's subject property. The Complainant is legally permitted to construct a building in excess of 100,000 square feet.


Accordingly, the Board finds the best assessment methodology for the subject property is direct sales.

The Board finds the subject's property assessment of \$215 per square foot plus a corner lot influence of 5% to be fair and equitable.

Board's Decision:

The decision of the Board is to confirm the assessment of \$4,130,000.

DATED AT THE CITY OF CALGARY THIS 3rd DAY OF NOVEMBER 2010.


R. Mowbrey
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.*

Exhibits:

C-1 Complainant's evidence (101 pages).

R-1 Respondent's evidence (228 pages).