

**COMPOSITE
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 Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER

E. Reuther, MEMBER

B. Kodak, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) 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: 201341682

LOCATION ADDRESS: 2328 Erlton Road SW

HEARING NUMBER: 59149

ASSESSMENT: \$ 4,150,000.

This complaint was heard on 5th day of October, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- B. Neeson

Appeared on behalf of the Respondent:

- J. Toogood
- P. Ohlinger

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

A request was made by the Respondent to have the assessment of the subject property increased; however, the Complainant objected to this request on the basis that no notice of this request had been exchanged.

It was the decision of the CARB that the Respondent's request to have the assessment raised would not be allowed as the Complainant had not been advised of such a request as required under Matters Relating to Assessment Complaints Regulation (MRAC) Section 8(2)(b)(i).

Property Description:

The subject is a large redevelopment site containing a gross area of 60,280 Sq. Ft. (1.38 acres) and which is located in the Erlton community of southwest Calgary. The site is improved with a few older residential properties; however, these are not considered to be of any significant value. The Land Use of the site is currently controlled through Direct Control By-Law 118Z2007. The property lies within the flood plain of the Elbow River.

Issues:

1. The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.
2. 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 298 (2) of the Municipal Government Act.
3. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
4. The influence adjustment factors applied to the assessment have been inequitably applied to the base rate.
5. The flood plain influence has not been captured by the City of Calgary.

Complainant's Requested Value: \$2,905,000. Revised in Exhibit C-2 to \$1,519,000.

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

1. The Board does not agree with this contention of the Complainant as no evidence was provided by the Complainant to indicate in what manner the assessment was prepared in contravention of Section 293 of the M.G.A.
2. The Board was not provided with any evidence or argument from the Complainant to support this issue.
3. The Board agrees with this assertion, assuming there is evidence to warrant a reduction.
4. It is the contention of the Complainant that Assessor has created an inequity by applying a base land rate of \$69/Sq. Ft. to the subject property when the parcel immediately adjacent to the east, a site which constitutes the balance of this block and which is essentially a mirror image of the subject, has been assessed with a base rate of \$36/Sq. Ft. This adjacent parcel, which fronts Macleod Trail, is subject to the same Land Use By-law as the subject. If this same \$36/Sq. Ft. base rate were applied to the subject it would result in an assessed value of \$2,170,080.

The Respondent contends that the assessment of the adjacent parcel is in error as the base land rate applied to Macleod Trail properties is actually \$85/Sq. Ft. of site area and they provided evidence (Exhibit R-1 pg 33) of 14 properties located along Macleod Trail where a base rate of \$85 had been applied.

The CARB is convinced by the Respondent's evidence that an error did occur in the preparation of the assessment of the adjacent parcel and that a base rate of \$36/Sq. Ft. is not appropriate to apply to the subject site. Application of such a base rate to the subject lands would only serve to compound the original error.

5. The Complainant introduced evidence in the form of City of Calgary produced Floodplain maps (Exhibit C-2 pg 24/25) which clearly shows the subject property to be fully within a Floodplain. The Complainant introduced (Exhibit C-2 pg 26) a City of Calgary produced *2010 Beltline influence Chart* whereon an environmental concerns discount of 20% is noted and, on page 27 of their Exhibit C-2, a further influence chart which identifies a Flood Plain (sic) influence of 30%. Application of this -30% floodplain influence to the requested \$36/Sq. Ft. base rate results in the Complainant's request of \$1,519,000.

The Respondent pointed out that the subject property is not located within the Beltline, but rather is located within the Chinook zone; therefore, the Beltline Influence Chart is not applicable to this property. The Respondent acknowledged that the subject property is indeed in a floodplain as are the surrounding properties; however, no discount or negative influence pertaining to same had been granted to any of these other properties and it would be inequitable to apply same to the subject.

The CARB agrees with the Respondent that application of a floodplain influence to the subject property would create an inequity unless that same adjustment were applied to all other properties located on the floodplain. While the logic of identifying properties as being on a floodplain but then making no allowance for same escapes the CARB, that is not the matter before us. The CARB is concerned with maintaining equity in terms of assessed values and it would clearly be inequitable to apply an allowance or discount to one property but not to another property with a similar concern.

Board's Decision:

The assessment is confirmed at \$4,150,000.

DATED AT THE CITY OF CALGARY THIS **13** DAY OF ~~October~~ 2010.



C. J. GRIFFIN

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.*