

**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: 068039908

LOCATION ADDRESS: 304R Macleod Trail SE

HEARING NUMBER: 59382

ASSESSMENT: \$ 940,500.

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

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

There were no Procedural or Jurisdictional matters brought forward.

Property Description:

The subject property is a vacant parcel of land which contains a gross area of 6,487 square feet. The parcel is a part of an assemblage of land parcels that were assembled for redevelopment.

Issues:

The grounds for appeal identified on the Complaint Form are as follows:

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 in calculating the assessment have been inequitably applied to the base rate including but not limited to shape, size, train tracks, access, land use restrictions, servicing and residual natured parcels.
5. The subject has limited access/restricted use adjustment that has not been captured by the assessment, it should reduce the assessment by 25%.

At the Hearing the Complainant indicated that the single issue to be given consideration is the 'limited/restricted access' suffered by the site for which the Assessor has made no adjustment.

Complainant's Requested Value: \$705,000. Revised in Exhibit C-2 to \$470,500.

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

The single issue to be considered by the CARB, as identified above, is the matter of limited/restricted access which affects the site.

The Complainant introduced evidence (Exhibit C-2 pg 13) in the form of a "My Property" report, as prepared by the City of Calgary which consists of, among other things, a map/diagram of the subject site which shows same to be a completely land locked parcel which has no direct access to any roadway. Additionally, the Complainant introduced (Exhibit C-2 pg 11) an Assessment Summary Report for the subject property, prepared by the City of Calgary, which clearly indicates, that the property has "Limited/Restricted Access", but this same report also indicates no market adjustment for the aforementioned influence.

The Respondent does not disagree that the subject property does have a Limited/Restricted Access issue; but it is their contention that no adjustment for this influence is necessary as the parcel is owned by the same party that owns the adjoining parcels; therefore, the matter of access is a mute point.

The CARB notes that the subject property is assessed as an independent parcel with an individual roll number, an independent address and an independent legal description. There is no evidence of any access agreements with adjacent parcels. It is the judgement of the CARB that, in this case, ownership of the parcel is not a determining factor for the application of an adjustment for limited or restricted access. This is an independent parcel of land that could be

sold on its own merits, albeit unlikely, and as such it is clearly land locked and is in need of an adjustment to recognise this situation.

Board's Decision:

The assessment is reduced to \$470,000.

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.*