

**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:

B. Horrocks, PRESIDING OFFICER

J. Massey, MEMBER

J. Kerrison, 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:	094209111
LOCATION ADDRESS:	5250 50 AV SE
HEARING NUMBER:	59371
ASSESSMENT:	\$2,120,000

This complaint was heard on the 6th day of October, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2

Appeared on behalf of the Complainant:

- Mr. A. Izard
- Mr. K. Fong

Appeared on behalf of the Respondent:

- Mr. P. Sembrat

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

The complainant advised that he was going to rely on arguments that he had used in a previous hearing where Mr. Kerrison, a Board member, was not present. As a result, Mr. Kerrison asked to be excused.

Property Description:

The subject property is a 2.47 acre parcel located in the Eastfield community in SE Calgary. The site contains a combination Gas Bar/Kiosk/Service Station/Store and a stand alone Car Wash. The rentable area is 3,165 sq. ft.

Issues:

The Assessment Review Board Complaint form contained 7 Grounds for Appeal. The complainant advised that all of the issues were outstanding, namely:

- (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 289(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 characteristics & physical condition of the subject property support the use of the income approach utilizing typical market factors for rent, vacancy, mgmt, non-recoverables and cap rates; indicating an assessment market value of \$1,163,000.
- (5) The Carwash assessed rental rate is incorrect and should be no higher than \$25,000.
- (6) The Gas Bar assessed rental rate is incorrect and should be no higher than \$45,000.
- (7) The Fast Food Restaurant assessed rental rate is incorrect and should be no higher than \$26 per sq. ft.

Complainant's Requested Value: \$1,352,000

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

The complainant submitted Evidence Submission labelled C-1.

The complainant advised that the assessment had been prepared on page 12 utilizing the cost approach to value, utilizing a Land Value of \$2,120,323 (\$14.54 / sq. ft.) and a Building Cost of \$553,639 as calculated utilizing the Marshall and Swift Estimator. The complainant argued that the subject should be assessed using the income approach to value.

The complainant at page 28, and following, provided a copy of ARB 0867/2010-P wherein the Board had revised the 2010 property assessment of two similar retail gas bar/convenience store/car wash facilities (initially assessed using the cost approach) after utilizing the income approach.

The complainant, at page 74 and following, provided copies of 4 Municipal Government Board decisions where the assessments for gas bar/convenience stores had been changed from the cost approach to the income approach.

The complainant, at page 262 through page 316, provided a plethora of equity comparables to demonstrate that the rental rate for the gas bar/ convenience store should be \$45,000.

The complainant, at page 333 and following provided a number of equity comparables to demonstrate that the rent rate for the stand alone carwash should be \$35,000.

The complainant, at page 386, provided the 2010 Requested Shopping Centre Assessment Valuation utilizing the rent rates derived above and typical values for Vacancy Rates, Non-Recoverable Allowance and an 8% Capitalization Rate to arrive at a valuation conclusion of \$1,352,000.

The respondent submitted Assessment brief labelled R-1.

The respondent, at page 15 provided the 2010 Commercial Property Costed Approach Summary for the subject and confirmed that the 2010 property assessment had been prepared using the cost approach to value, utilizing a Land Value of \$1,566,684 (\$14.54 / sq. ft.) and a Building Cost of \$553,669.

The respondent, at page 18, provided 6 land sales with Time Adjusted Sales Prices ranging from \$449,482 / acre to \$1,213,318 / acre in support of the applied Land rate of \$634,285 per acre.

In response to a question from the panel, the complainant advised that the applied Land Value (14.54 / sq. ft.) was acceptable.

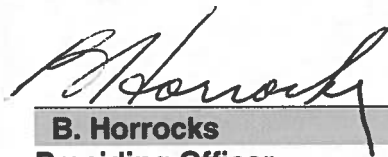
It is noted that although the complainant had identified the rent rate for the Fast Food Restaurant as being too high (Grounds for Appeal #7), there was no evidence submitted to support a change and the complainant utilized \$30 / sq. ft. in his requested Valuation on page 386.

The Board finds that using the income approach, as proposed by the complainant on page 386 of C-2 yields a valuation conclusion of \$1,352,000. Further, utilizing the cost approach as proposed by the respondent on page 15 of R-1 yields a Land Value of \$1,566,684. Considering the highest and best use of the property, the existing development cannot generate sufficient income to exceed the land value. As a result, the assessment should be reduced to the Land Value only.

Board's Decision:

The 2010 assessment is reduced to \$1,560,000.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF October 2010.



B. Horrocks
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.*