

**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: 201085834 & 068115401

LOCATION ADDRESS: 1227 – 11 Avenue SW & 201 – 10 Avenue SE Respectively

HEARING NUMBER: 59176 & 59567

ASSESSMENT: \$11,390,000. & \$8,130,000. Respectively

This complaint was heard on 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 6.

Appeared on behalf of the Complainant:

- J. Weber

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:

Roll number 201085834 refers to a 42,216 Sq. Ft. vacant parcel of land that is located in the Beltline area of the city. The site currently has a Land Use Designation of CC-X, Centre City Mixed Use District. The site is currently assessed at a base land rate of \$270/Sq. Ft.

Roll number 068115401 refers to a vacant land parcel containing a gross area of 25,978 Sq. Ft. The site currently has a DC-Direct Control Land Use Designation. The site is currently assessed at a base land rate of \$313/Sq. Ft.

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 City has failed to adjust sales that include value other than land in determining their base land rates.
5. The City failed to recognise that there is no market demand for a change in use of the subject property.
6. The City has failed to adequately recognise the significant decrease in market demand for redevelopment sites at the valuation date.
7. The City has failed to adjust sales for the shift in demand represented by a negative "time" or "market conditions" adjustment.
8. The assessment of the subject property is in excess of its market value for assessment purposes, it should be \$200/Sq. Ft.

At the Hearing the Complainant confirmed with the CARB that the single Issue to be considered by the CARB is that of Equity in terms of the assessed value of the subject sites compared to similar properties.

Complainant's Requested Value:

\$8,440,000. (Roll # 201085834) & \$3,768,000. (Roll # 068115401) Revised in Exhibit C-2 to \$9,070,000. & \$5,580,000. Respectively.

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 equity with regard to the base land rate applied to derive the assessed value of the subject sites.

The Complainant introduced evidence (Exhibit C-2 pgs 12 through 15) of 110 Beltline located equity comparables all of which, save twelve (12), are assessed with an unadjusted base land rate of \$215/Sq. Ft. The Complainant pointed out to the CARB that four (4) of the aforementioned twelve (12) properties have now also been reduced to a base rate of \$215/Sq. Ft. as shown in CARB Decision 0709/2010-P. Additionally, the Complainant introduced (Exhibit C-2 pg 10) a copy of the 2010 Beltline Commercial Land Rates map as prepared by the City of

Calgary which clearly shows the land rates for all eight (8) Beltline zones being \$215 or less. Additionally, the Complainant provided an additional 23 equity comparables (Exhibit C-2 pg 7) from the immediate vicinity of the 11th Avenue SW parcel (Roll # 201085834), all of which have the same Land Use Designation and all of which are assessed with a base land rate of no greater than \$215/Sq. Ft. Similar evidence (Exhibit C-2 pg 6) was also provided for the 10th Avenue property (Roll # 068115401).

The Respondent began his presentation before the CARB by indicating that the assessed rate of \$313/Sq. Ft. that had been applied to Roll # 068115401 was, in fact, an error and recommended that a rate of \$270/Sq. Ft. be applied as being appropriate for the subject property. The Complainant did not find this recommendation to be acceptable.

The Respondent explained to the CARB that there are two land rates applied in the Beltline, one being \$215/Sq. Ft. of site area for commercial properties and the other being \$270/Sq. Ft. of site area which is applied to multi-family residential lands. To support the rate applied to the multi-family land the Respondent provided (Exhibit R-1 pg 16) five (5) sales of multi-family sites located within the Beltline which ranged from a low of \$196/Sq. Ft. to a high of \$313/Sq. Ft. and which indicate a median of \$269/Sq. Ft. which they contend supports the applied multi-family rate of \$270/Sq. Ft. Additionally, the Respondent submitted (Exhibit R-1 pg 32) a Multi-Residential Land Sales Report: January 2007 to July 2008 which provides sales evidence indicating an unimproved land sale median value of \$318/Sq. Ft. It is the contention of the Respondent that these combined sales clearly support the correct rate of \$270/Sq. Ft. for the subject property.

The CARB is, in this instance, primarily concerned with the issue of equity and the evidence of the Complainant clearly shows that 102 of 110 properties, all located within the Beltline market area, are assessed at a land rate of \$215/Sq. Ft. or less. It is the contention of the Respondent that the Land Use Designation is the determining factor as to which base land rate should be applied, \$270 for multi-family or \$215 for commercial; however, their evidence does not serve to convince the CARB. The CARB finds that the land sales evidence presented by the Respondent (Exhibit R-1 pg 32) shows commercial land selling, during that time period, for as high as \$714/Sq. Ft. and as low as \$200/Sq. Ft. and multi-family lands selling from a low of \$228/Sq. ft. to as high as \$561/Sq. Ft. The CARB interprets this information as indicating that Land Use Designation does not, in this case and in this geographic area, appear to be a major influence in determining value. The CARB is of the judgment that the evidence of the Complainant clearly supports their case.

Board's Decision:

The assessments are reduced as follows:

Roll # 201085834 - \$9,070,000.

Roll # 068115401 - \$5,580,000.

DATED AT THE CITY OF CALGARY THIS 19 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.*