

**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:

T. Hudson, Presiding Officer

H. Ang, Member

R. Deschaine, 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:	052221215
LOCATION ADDRESS:	1440 52nd Street NE
HEARING NUMBER:	59306
ASSESSMENT:	\$33,160,000

This complaint was heard on the 15th day of October, 2010, at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- Mr. A. Izard and Mr. K. Fong (Altus Group Ltd., Agent)

Appeared on behalf of the Respondent:

- Mr. P. Sembrat and Mr. Harry Yau (City of Calgary, Assessor)

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

In the absence of any Procedural or Jurisdictional Matters the merit hearing proceeded.

Property Description:

The subject property is a Neighbourhood/Community shopping centre located in Marlborough Park at 1440 52 Street NE, on a 16.46 acre site. The property accommodates 181,852 sq. ft. of mixed use commercial space, including a fast food restaurant and a combination gas bar, small format convenience store and car wash. The current assessment is \$33,160,000.

The parties agreed on a correction to the space allocation for the fast food restaurant from the assessed 7,650 sq. ft. to 2,656 sq. ft. which reduces the assessment to \$33,110,000.

Issues:

The Complainant disputes the Assessment Amount for the combined gas bar, convenience store, car wash improvements on the subject property, and seeks a reduction based on equity. In addition, the Complainant requests tax exempt status for the 15,868 sq. ft. occupied on the subject property by a branch office of the Alberta Child and Family Services Authority. The Complainant advised that the other matters listed under "Grounds for Appeal" on Page 8 of exhibit C-1 have been resolved.

Complainant's Requested Value: \$29,660,000

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

Gas Bar Assessment:

The Complainant submitted several examples where gas bar convenience store combinations

located as part of shopping centres throughout Calgary are assessed at a flat rate of \$45,000 for the gas bar portion and \$25,000 for the convenience store. The subject property however has a standard gas bar, a very small format convenience store, but also includes a car wash, and is assessed at \$105,000. The Complainant suggests that the assessment of the gas bar at \$45,000 plus \$35,000 for the car wash for a total of \$80,000 reflects an equitable assessment for this portion of the subject property. This means that the small format convenience store portion of the assessment would be eliminated. The Respondent countered that there is no evidence before the Board to support the notion of the Complainant, that the assessment for the car wash should be \$35,000. Further, none of the example properties submitted by the Complainant are comparable to the subject property because they do not include a car wash.

The Board finds that the Complainant's evidence on the gas bar assessment issue is insufficient to support a reduction in the assessment of the subject property based on equity, due to the absence of similar assessment comparables.

Board Finding on the Tax Exempt Status of the Alberta Child and Family Services Occupancy:

The Board finds that non-profit organizations such as the Alberta Child and Family Services Authority can apply to the municipality for tax exempt status under Section 362(1)(n) of the Municipal Government Act(MGA) and subject to Alberta Regulation 281/1998, the Community Organization Property Tax Exemption Regulation. However, the evidence before the Board indicates that this organization has chosen not to apply for tax exempt status.

The Board finds that the request to change the tax exempt status of this occupancy in the present circumstances is premature at best and is therefore denied.

Board's Decision:

The Assessment is reduced to \$33,110,000 based on the corrected restaurant space allocation.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF October 2010.



T. Hudson
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.*