

**CITY OF CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

Between:

ALTUS GROUP LTD., Complainant

and

THE CITY OF CALGARY, Respondent

Before:

**J. KRYSA, Presiding Officer
R. COCHRANE, Member
S. ROURKE, Member**

A hearing was convened on October 22, 2010 in Boardroom 4, at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	068203504
LOCATION ADDRESS:	231 – 15th Avenue SW
HEARING NUMBER:	60290
ASSESSMENT: (Amended)	\$809,500

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a vacant 2,999 square foot (sq.ft.) parcel of land, located south of the downtown core in the Beltline district. The subject has a land use designation of Centre City Multi-Residential High Rise District, and is currently used for automobile parking. The total assessment equates to a unit rate of \$270.00 per sq.ft.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

There were no procedural or jurisdictional matters raised by the parties during the course of the hearing.

PART C: MATTERS / ISSUES

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment amount
4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter number 3, an assessment amount. The Complainant set out 9 reasons for complaint in Section 5 of the complaint form with a requested assessment of \$599,500; however, the Complainant stated only the following issue is in dispute:

Issue: Equity – the applied base land rate of \$270.00 per sq.ft. is inequitable with the rate applied to nearby commercial lands.

The Complainant submits that an equitable assessment value is \$644,500 [C1, p. 227].

Issue

The Complainant argued that the assessment of the subject property is inequitable in relation to the assessments of similar properties; and specifically in relation to commercial land use designated lands in the Beltline district that are assessed at a base rate of \$215 per sq.ft.

In support of that argument, the Complainant submitted 110 equity comparables, of which 27 did not display an assessed land rate. Of the remaining 83 equity comparables, 12 had a multi-residential land use designation with an apparent base land rate of \$270.00 per sq.ft. The remainder of the assessments, all with commercial land use designations appeared to be assessed at base rate of \$215.00. The Complainant pointed out that 4 of the 12 multi-residential assessments referred to above, were reduced to the commercial rate of \$215.00 per sq.ft. as set out in CARB decision 0709/2010-P [C1, p.194-197].

The Complainant further submitted Amendment No. 98/140 of Bylaw No. 24Z99, which sets out an additional discretionary use of "...office" within the building existing on the site as of the date of the passage of this bylaw" [C1, pp. 22-23]; and asserted that the subject property, although of a multi-residential land use designation, would have a value not exceeding that of commercial land use designated lands in the same district, as a purchaser of a commercial site would pay no more for the subject, than a comparable commercial site could be attained for.

The Complainant also submitted market evidence of 2 listings and 11 sales of sites dated between March 2007 and December 2009, ranging in size from 6,447 to 49,088 sq.ft., with various land use designations. The unadjusted unit values range from \$118.28 to \$264.29 per sq.ft. [C1, p.45].

The Respondent argued that the assessment rate of \$270.00 per sq.ft. reflects the subject's multi-residential land use designation; and in support of this argument, submitted 5 sales of multi-residential land use designated properties located in the Beltline district, ranging in size from 2,251 to 6,515 sq.ft., that exhibit a value range of \$196.00 to \$313.00 per sq.ft., and a median rate of \$269.00 per sq.ft. [R1, p. 27].

The Respondent provided a further 13 sales of multi-residential land use designated, Beltline parcels that sold between January 2007 to July 2008, to illustrate that multi-residential land use designated lands have sold at a premium unit value to the predominantly commercial land use designated land sales found on page 45 of the Complainant's exhibit C1 [R1, p.43].

Decision:

The Board finds that the assessment of the subject property is equitable in relation to the assessments of similar properties.

The Board finds that the Complainant's 83 equity comparables do not demonstrate an inequity, but rather, illustrate that all of the multi residential land use designated properties were equitably assessed at a base rate of \$270.00 per square foot; and further, all of the commercial land use designated properties appeared to be equitably assessed at a base rate of \$215.00 per sq.ft.

With respect to CARB 0709/2010-P, it is noted that the decision and reasons of the Board relate to equity, however, made no reference to the influence differing land use designations may have on market value; specifically it appears that land use designation was only a consideration with respect to issue 2, the assessment classification for tax rate purposes. Further, it is noted that the Complainant's evidence before the Board consisted of a number of sales with a range of unit values from \$118.28 to \$200.01 per sq.ft., and 17 equity comparables exhibiting a range of unit values from \$214.00 to \$226.00 per sq.ft., which appears to be a significantly smaller sample of equity comparables, and a narrower range of sale prices than the evidence presented to the Board in this matter.

The Board was not persuaded by the Complainant's market evidence, which included sales of properties with predominantly commercial land use designations and only 3 properties with multi-residential land use designations. The Complainant failed to prepare an analysis to demonstrate that land use designation does not influence market value, a major factor in establishing that properties with different land use designations should be assessed at the same rate. In the absence of such evidence, the Board cannot conclude that these properties should be assessed at the same base rate, and therefore that the current applied base rate is inequitable.

It is further noted that the average unadjusted unit value of the Complainant's three multi-residential land use designated parcels was \$213.03 per sq.ft., in contrast to the average unadjusted unit value of the ten commercial land use designated parcels of \$173.80 per sq.ft., demonstrating an approximate 23% premium for the multi-residential land use designation in relation to commercial land use designated parcels. This premium appears to be consistent with the position of the Respondent, in that the \$270.00 per sq.ft. base rate applied to multi-residential lands is approximately 25% greater than the \$215.00 per sq.ft. base rate applied to commercial lands.


The Board finds that the Respondent's market evidence on pages 27 and 43 of exhibit R1, supports the applied multi-residential land rate of \$270.00 per sq.ft., and further demonstrates that multi-residential lands sell at a premium in relation to commercial lands located in the Beltline district.

The Board also does not accept the Complainant's assertion, that as a result of Amendment No. 98/140 of Bylaw No. 24Z99, and the current use of the property as a parking lot, the subject property would have a value no greater than that of nearby commercial lands. The amendment allows for a restricted, additional discretionary use of an "office" within an existing building; it does not in any way restrict the development of the subject site from its highest and best use as permitted by the current multi-residential land use designation, notwithstanding its interim use as a parking lot.

PART D: FINAL DECISION

The amended assessment is confirmed at \$809,500.

Dated at the City of Calgary in the Province of Alberta, this 24th day of November, 2010



J. Krysa
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

NO.	ITEM
1.	Exhibit C1 Evidence Submission - Complainant
2.	Exhibit R1 Evidence Submission - Respondent

APPENDIX "B"**ORAL REPRESENTATIONS**

PERSON APPEARING	CAPACITY
1. B. Neeson	Representative of the Complainant
2. D. Grandbois	Representative of the Respondent

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.*