

**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

C. M^cEWEN, Member

J. MATHIAS, Member

A hearing was convened on October 27, 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:	067023507
LOCATION ADDRESS:	512 – 4th Avenue SW
HEARING NUMBER:	57862
ASSESSMENT:	\$3,120,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 7,811 square foot (sq.ft.) parcel of land, improved with a 14,300 sq.ft. two storey, freestanding retail structure constructed in 1952 and occupied by Caesar's Steakhouse. The subject has a land use designation of Downtown Business District, and has been assessed as vacant land in accordance with the principle of highest and best use, at a unit rate of \$400.00 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 19 grounds for the complaint in Section 5 of the complaint form with a requested assessment of \$2,148,025; however, in the Complainant's evidence submission, only the following issues are indicated to be in dispute:

Issue 1: As there is no demand for commercial developments due to the oversupply in the office market, dropping rental rates and increasing vacancy. This makes the probability of development unlikely and financially not feasible. As such, the best approach to value is the Present worth of future income [C1, p.3].

Issue 2A: Market rates suggest a land rate of \$300.00 per sq.ft. [C1, p.3].

Issue 2B: Equity rates suggest a land rate of \$300.00 per sq.ft. [C1, p.3].

The Complainant submits that the assessment should be reduced to \$2,343,300 based on equity [C1, p. 3].

Issue 1: As there is no demand for commercial developments due to the oversupply in the office market, dropping rental rates and increasing vacancy. This makes the probability of development unlikely and financially not feasible. As such, the best approach to value is the Present worth of future income [C1, p.3].

The Complainant submitted no evidence or argument with respect to the issue set out above.

Decision – Issue 1

In the absence of any evidence or argument with respect to the issue set out above, the Board makes no finding with respect to Issue 1.

Issue 2A: Market rates suggest a land rate of \$300.00 per sq.ft. [C1, p.3].

The Complainant argued that the market area DT1 (central core) land rates applied by the Assessor are based on dated sales that are reflective of land values prior to the downturn in the economy.

In support of that argument, the Complainant submitted market evidence of nine sales, with recorded dates between August 2008 and July 2010, exhibiting a range of unadjusted sale prices from \$125.13 to \$564.48 per sq.ft.; with average and median unadjusted sale prices of \$225.60 and \$200.00 per sq.ft. respectively. The sale at 101 Barclay Parade did not exhibit a lot size or unit rate; and under cross examination by the Respondent, the Complainant conceded that the sales at 123 7th Avenue SW and 525 4th Street SW were dissimilar to the subject and should be excluded from the analysis.

In support of the applied base rate of \$400.00 per sq.ft, the Respondent submitted four sales of vacant land located in market area DT1, with recorded dates between May 2007 and October 2008, exhibiting a range of unadjusted sale prices from \$518.78 to \$707.04 per sq.ft.; with average and median unadjusted sale prices of \$589.82 and \$566.73 per sq.ft. respectively [R1, pp. 23-36]. The Respondent conceded that the sales were somewhat dated; however, he argued that in the absence of more recent sales in the central core, sales from inferior areas should not be relied upon to estimate the value of lands located in prime locations.

In response to the Complainant's remaining six sales comparables, the Respondent submitted evidence to demonstrate that three are sales that had occurred subsequent to the valuation date by approximately 1 full year; two of which were also court ordered "distress" sales. The remaining three sales are all located in market area DT3, an inferior location referred to as the "East Village" [R1, pp.41-88].

Decision – Issue 2A

The Board finds that there was insufficient relevant market evidence submitted by the Complainant to establish a *prima facie* case with respect to this issue.

The Board does not find the Complainant's market evidence compelling, as the evidence is comprised of transactions that occurred well beyond the valuation date for this assessment, court ordered sales, and sales of properties that the Complainant herself, conceded were not similar to the subject property. The remaining sales are all located in inferior locations compared to the subject property, and are not valid indicators of the market value of the subject property.

The Board finds that the Respondent's market evidence of central core land sales, although somewhat dated, is the best market evidence available to establish the value of the subject property.

Issue 2B: Equity rates suggest a land rate of \$300.00 per sq.ft. [C1, p.3].

The Complainant argued that the assessment of the subject property is inequitable in relation to the assessments of similar properties. In support of that argument, the Complainant submitted three equity comparables located within five blocks of the subject property, ranging in area from 13,999 sq.ft. to 79,862 sq.ft. and exhibiting base rates of \$290.00 to \$300.00 per sq.ft. [C1].

The Respondent submitted that that the subject property is located in market area DT1, and argued that two of the Complainant's equity comparables are not similar to the subject as they are located in market area DT2 (western core), which has been assessed at a base rate of \$290.00 per sq.ft. [R1, pp.37-38].

With respect to the third equity comparable, located at 214 6th Avenue SW, the Respondent submitted a copy of an amended 2010 property assessment notice mailed on July 15, 2010, and the corresponding assessment explanation summary, indicating that the assessment has been amended to a reflect base rate of \$400.00 per sq.ft., identical to that of the subject [R1, pp.39-40].

Decision – Issue 2B

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

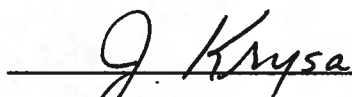
The Board is persuaded by the Respondent's evidence that indicates the downtown lands have been stratified by market area (DT1, DT2, etc.), and that base land rates have been applied consistently to the properties in each market area [R1, pp. 18-19].

The Board finds that the Complainant's three equity comparables do not demonstrate an inequity, as two of the properties are located in an inferior market area, in relation to the subject; and the third equity comparable located in DT1, has since been amended to the same base rate as the subject property.

PART D: FINAL DECISION

The assessment is confirmed at \$3,120,000.

Dated at the City of Calgary in the Province of Alberta, this 8th day of December, 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. S. Sweeney-Cooper	Representative of the Complainant
2. D. Lidgren	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.*