

**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:	067088286
LOCATION ADDRESS:	1234 – 11th Avenue SW
HEARING NUMBER:	58398
ASSESSMENT: (Amended)	\$4,870,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 21,577 square foot (sq.ft.) parcel of land, improved with a two storey freestanding retail structure of an unconfirmed size, constructed in 1928, and occupied by Chintz & Co. The subject has a land use designation of Centre City Mixed Use District, and has been assessed as vacant land in accordance with the principle of highest and best use, at a base unit rate of \$215.00 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 13 grounds for the complaint in Section 5 of the complaint form with a requested assessment of \$3,650,000; however, in the Complainant's evidence submission only the following issues are indicated to be in dispute:

Issue 1: Highest and Best Use

Issue 2: Market Value - Income Approach to Value

Issue 3: Equity

The Complainant requested the assessment be reduced to \$3,898,000, although the evidence also set out requested values of \$3,860,000 and \$3,883,000.

Issue 1: Highest and Best Use

The Complainant argued that the subject property's current use is the highest and best use of the site, as the improvement has been renovated and operates as a high end retail store. Accordingly, the capitalized (market) net operating income of the current improvement would correctly represent the market value of the property. Additionally, in light of the recent economic downturn similar properties in the Beltline district are not being redeveloped, further confirming that the current use of the subject is the highest and best use.

The Respondent argued that as the value of the underlying land exceeds the value established by capitalizing the subject's market net operating income level, the current improvement does not represent the highest and best use of the property. Accordingly, capitalizing the (market) net operating income of the current improvement would not reflect the market value of the property. Further, the Respondent argued that the approach relied upon is reasonable, has been applied equitably throughout the Beltline district, and the land values applied are supported by sales of vacant and improved parcels.

Decision – Issue 1

The Board finds that the current use of the property does not represent the highest and best use of the land.

Notwithstanding the recent renovations to the improvement that allow it to continue to function as a retail property, the Complainant's income approach evidence indicates that the subject property is incapable of producing a capitalized income value in excess of the value of the underlying land (as though vacant). As a result, the Board finds that the value of the land represents the market value of the property, and the current improvement does not contribute any incremental value over and above the value of the underlying land in this instance.

Issue 2: Market Value - Income Approach to Value

The Complainant provided an income approach valuation of the subject property, which set out a value of the subject property of \$3,898,919 [C1, p. 77].

The Respondent did not submit an income approach valuation of the subject property, but argued that the Complainant's building areas were incorrect, and that the income and expense coefficients applied in the Complainant's approach were not supported with market data, and were therefore unreliable.

Decision – Issue 2

In light of the Board's decision with respect to Issue 1 above, the Board finds that the Complainant's income approach valuation is irrelevant, as the value is founded on the current use of the subject, which is not the highest and best use of the property.

Issue 3:

The Complainant argued that the subject is inequitably assessed in relation to other properties that have been assessed on the income approach to value. In support of this argument, the Complainant submitted a summary list of the assessed coefficients and resultant values for 10 retail properties in the Beltline district [C1, pp. 72-75].

The Respondent indicated that the assessment of the subject property was equitable with other properties in the Beltline district, as the approach relied upon has been applied consistently and equitably throughout the Beltline district.

Decision – Issue 3

The Board finds that there was insufficient evidence submitted by the parties to conclude that the assessment of the subject property is inequitable in relation to the assessments of similar properties.

Although the Complainant provided evidence of other Beltline properties that were assessed using the income approach to value, the land values of those properties were not set out. Without evidence that these properties are assessed at values below the value of their underlying land values, the Complainant has not demonstrated that an inequity exists.

PART D: FINAL DECISION

The amended assessment is confirmed at \$4,870,000.

Dated at the City of Calgary in the Province of Alberta, this 8th day of December, 2010

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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.*