

**CALGARY
COMPOSITE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against the Property assessments as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

*Altus Group (Agent) on behalf of
17th AVENUE HOLDING LTD., COMPLAINANT*

and

The City Of Calgary, RESPONDENT

before:

D. H. Marchand, PRESIDING OFFICER

D. Pollard, MEMBER

M. Peters, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board (CARB) 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:	067203406
LOCATION ADDRESS:	1410 – 17 Avenue SW
LEGAL DESCRIPTION:	Plan A1; Block 87; Lot 28-31
HEARING NUMBER:	59541
ASSESSMENT (2010):	\$2,800,000

This complaint was heard on 20th day of October, 2010 at the office of the Assessment Review Board located at 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant; *Altus Group*: B. Neeson

Appeared on behalf of the Respondent; *City of Calgary*: D. Grandbois

Description and Background of the Property under Complaint:

The subject property parcel of 13, 042 square feet has two separate commercial retail developments located on it. One of the buildings fronts on to 16th Avenue, the other fronts on to 17th Avenue, making it unique in that respect.

It is identified with a sub-property use code labelled CS2100-Retail. The subject's land use designation is Centre City Commercial Corridor District in the Beltline community.

The building fronting on to 16th Avenue is an average 1957 built retail store of 2,500 square feet split by two tenants; Routine and Bird Dog Video. The other building is a 1949, renovated in 2007, good quality retail building of 3,750 square feet, currently leased by 1410 Bier Market Restaurant and Lounge.

Prior to the opening of the hearing the Complainant advised that only 1 issue of the 12 points filed as **Grounds for Appeal** within the subject's Assessment Review Board complaint form under *Section 5 – Reason(s) for Complainant* would be argued at this hearing. It is as follows:

- *"The highest and best use of the subject as vacant land does not meet the test of financially feasible, maximally productive, physically possible and legally permissible. The City's conclusion is erroneous.*

The Parties advised the CARB that the land valuation rate per square foot was argued several times previous before the different CARB panels and that the rate of \$215 per square foot applied by the Municipality for similar property had been upheld consistently.

The Complainant conceded that the rate of \$215 per square foot for the subject's land. Because the land is influenced by both 17th Avenue, with its typically higher retail rental rate in the \$40.00 per square foot range, and the lower 16th Avenue rental rates, in the \$20.00 per square foot range, the Complainant desired to make the argument for an assessment based on the capitalized income approach, citing the assessment would be a more reasonable market value conclusion.

The Complainant's requested assessment is \$2,300,000.

Issue:

1. Is the income approach valuation methodology, based on the typical parameters established by the Municipality, applied to the typical market rental income, more reflective of the subject's market value.

Party Positions:

The Complainant provided a valuation summary of the subject's actual leasing activity. A rate of \$40.00 per square foot was applied to building #1's 3,750 sq. ft. on 17th Avenue, and a rate of \$20.00 per square foot was applied to building #2's 2,500 sq. ft. on 16th Avenue. With a vacancy

allowance of 8.5%, an operating cost allowance based on \$12.00 per sq. ft., and with a capitalization rate of 7.5%, the value concluded is \$2,306,200.

Based on the total building area on the subject parcel, the rate of \$369.00 per square foot is concluded. The assessment on a square foot of building area amounts to \$448 per square foot.

The Respondent drew the CARB's attention to ARB 1191/2010-P wherein the decision is stated:

"The reasoning of the Assessor is clear to the CARB and it is based upon well founded valuation theory. If the improvements to a given property are of such an age or design or other influence that results in the property being incapable of producing a capitalized income value that exceeds the established land value, then the land value represents the market value of the property."

The Respondent advised that the same principle applies to the subject property under complaint. Evidence of sales comparables and equity comparables that support the conceded land value rate of \$215 per square foot were provided to the CARB. The assessment is the result of the subject's parcel size of 13,042 square feet being valued at a rate of \$215 square foot.


Decision:

The assessment is confirmed at \$2,800,000.

Reasons:

The income generating capacity or potential of current improvement use and the rental rate available for such a use, when capitalized, is outstripped by the land parcel's value as if vacant. Both parties have stated such. This is not uncommon when property is in transition from one highest and best use to another.

DATED AT THE CITY OF CALGARY THIS 3 DAY OF November 2010.



D. H. Marchand
Presiding Officer

DM/sd

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.*