

**COMPOSITE
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-26.1, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER

D. Julien, MEMBER

J. Mathias, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 067234708 / 067234807 / 067234906 / 067235002

LOCATION ADDRESS: 601 Eau Claire Ave. SW / 660 – 2 Ave. SW / 501 Eau Claire Ave. SW & 520 – 2 Ave. SW Respectively

HEARING NUMBER: 59545 / 59546 / 59547 / 59548

ASSESSMENT: \$25,010,000. / \$20,660,000. / \$18,690,000. / \$15,720,000. Respectively

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

Appeared on behalf of the Complainant:

- J. Weber

Appeared on behalf of the Respondent:

- D. Grandbois

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

The four Roll Numbers that relate to the properties to be given consideration in this Hearing constitute 2 large, vacant land parcels that are located across the street from each other in the Eau Claire district of downtown Calgary. The issues to be decided upon are the same for all four roll numbers and it was suggested by both parties that the CARB hear the matter as one case. The CARB concurred, but reserved the right to issue separate written decisions should they so choose.

Property Description:

Roll number 067234708 refers to a 79,426 Sq. Ft. vacant parcel of land.
Roll number 067234807 refers to a 65,612 Sq. Ft. vacant parcel of land.
Roll number 067234906 refers to a 59,342 Sq. Ft. vacant parcel of land.
Roll number 067235002 refers to a 49,909 Sq. Ft. vacant parcel of land.

Issues:

While there are a number (20) of inter-related issues identified on the complaint form, at the Hearing the Complainant confirmed, as identified on page 3 of Exhibit C-1, with the CARB that the Issues to be dealt with could be reduced to the following four:

1. The subject is assessed in excess of market value.
2. The subject should be assessed at a rate of \$30 psf (per square foot) of buildable area.
3. The subject is zoned with a DC bylaw restricting development to an FAR (floor area ratio) of 4.0.
4. The subject is not assessed equitably when comparing the assessment per Sq. Ft. of buildable area.

Complainant's Requested Value:

The Complainants original requests were revised in Exhibit C-2, page 3, to:

Roll # 067234708 requested value \$9,530,000.
Roll # 067234807 requested value \$7,870,000.
Roll # 067234906 requested value \$7,120,000.
Roll # 067235002 requested value \$5,980,000.

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

It is the contention of the Complainant that the subject land parcels are severely, and uniquely restricted as to their future development potential by the Land Use Bylaw Amendment which encompasses the sites. The Complainant introduced (Exhibit C-1 pgs 11 – 24) the Land Use Amendment Bylaw 91D2008 which controls the development of the subject parcels of land. This Bylaw indicates that the subject land parcels are to be developed as a residential area with the opportunity for a limited amount of non-office commercial uses (Exhibit C-1 pg 15). Additionally, this Bylaw indicates (Exhibit C-1 pg 23) the maximum density allowance to be 130 units per acre and the maximum gross floor area (FAR) to be 4.0. The maximum building height is 25 storeys, not exceeding 225 feet. The Complainant explained to the CARB that most of the downtown area has an allowable FAR of 7.0 or higher, with the possibility, through bonuses, of achieving an FAR of up to 20. Comparing land sales of parcels with these higher FAR

allowances on a price/Sq. Ft. of site area to derive an estimate as to the assessed value of the subject parcels is unfair and inequitable. It is the contention of the Complainant that the more realistic comparison would be to compare land parcel sales on the basis of selling price/Sq. Ft. of *buildable* area as this takes into account the variation(s) in FAR allowances of different parcels. In support of this position the Complainant introduced (Exhibit C-1 pg 25) a synopsis of seventeen (17) sales of downtown located parcels which were recorded between September 2006 and July 2009. The size of these parcels ranged from 3,250 Sq. Ft. to 94,090 Sq. Ft. These parcels ranged in selling price/Sq. Ft. of site area from a low of \$145.50/Sq. Ft. to a high of \$630/Sq. Ft. and indicated an average of \$264.46/Sq. Ft. and a median of \$221.19/Sq. Ft. The FAR allowances of these parcels ranged from a low of 6.65 to a high of 20 and averaged 8.50 with a median of 7.0. The sales price/Sq. Ft. *buildable*, which is calculated by multiplying the site size by the applicable FAR and dividing the sales price by the result, ranged from a low of \$21.88/Sq. Ft. to a high of \$64.04/Sq. Ft. with the dominant range being \$22/Sq. Ft. to \$35/Sq. Ft. The indicated average was \$32.01/Sq. Ft. *buildable* and the indicated median was \$27.07/Sq. Ft. *buildable*. The Complainant then introduced (Exhibit C-1 pg 26) an Equity Analysis wherein the 2010 assessed values of these same seventeen (17) properties were reduced to the indicated assessed value/Sq. Ft. of site area (\$191.27 average & \$198.46 median) vs. the assessed value/Sq. Ft. *buildable* (\$23.96 average & \$21.80 median). The Complainant indicated (Exhibit C-1 pg 27) the assessed values of the subject sites equate to \$300/Sq. Ft. of site area or \$79/Sq. Ft. *buildable*. The Complainant is requesting a revised assessment equating to \$30/Sq. Ft. *buildable*.

The Respondent contends that the price/Sq. Ft. *buildable*, as advanced by the Complainant, is not a reliable indicator as the maximum FAR can be misleading as it can only be achieved through the application of bonuses. In support of this position the Respondent introduced (Exhibit R-1 pg 75) a recent CARB decision (1651/2010-P) wherein the Board gave consideration to a similar FAR argument but was not persuaded by same. The respondent then referred the CARB to page 85 of Exhibit R-1, a synopsis of three (3) sales which the Respondent contends support the base land rate applied to the subject parcels. These three (3) sales show an indicated selling price/Sq. Ft. of site area ranging from \$274.08 to \$448.27 and indicate a Mean of \$368.69/Sq. Ft. and a Median of \$383.72/Sq. Ft. The Respondent noted that one of these sales, 700 – 1 Ave. SW, referred to a 96,948 Sq. Ft. property located across from the subject parcels and which has an FAR similar to that of the subject parcels and which sold for \$274.08/Sq. Ft. of site area.

The Complainant pointed out to the CARB that two of the Respondents sales were not from the same downtown zone as the subject properties. Further, the Complainant pointed out that page 95 of Exhibit R-1 clearly indicates that one of the referenced sales was 100% vendor financed and questioned the validity of such a sale. The Complainant also pointed out that page 86 of Exhibit R-1 indicates that the sale of the 700 – 1 Ave. SW property appears to refer to a proposed 151 unit condominium development with a pending development permit (DP2006-1371) that was 100% pre-sold and questioned the Respondent as to what influence this may have had on the purchase price. The Respondent was unable to answer if this latter factor would have had any influence.

The CARB has, in this case, little confidence in the reliability of the sales evidence provided by the Respondent. The CARB agrees with the contention of the Complainant that the sales price per square foot of buildable area can be an acceptable sales indicator; however, its acceptance is reliant upon its proper application and analysis. If the analysis is done properly, the result can be a very reliable indicator of value as it does take into consideration the variances of FAR. The

sales price per square foot of site area does not appear to give any consideration to the FAR variance and this is evident in the broad value range this indicator produces as shown on page 25 of Exhibit C-1 where the selling prices range from a low of \$145.50/Sq. Ft. to a high of \$630/Sq. Ft. Referring to this same page, the CARB notes a much narrower range in the indicated selling price per square foot *buildable*. The CARB considers the sales price per square foot *buildable* analysis provided by the Complainant to be flawed in that it incorporates some speculative FARs and it also incorporates sales from the East Village area of the downtown area which is not considered to be competitive with the subject location. The CARB chose to perform a similar analysis excluding properties located in the East Village and incorporating only those sales with a non-speculative base FAR of 7 or less. This resulted in seven (7) sales being analysed and the resulting average sales price per square foot *buildable* was indicated to be \$40.23. In the judgment of the CARB, and having reviewed and considered all of the evidence and argument of both parties, this is a reasonable value indication.

Board's Decision:

The assessments are reduced as follows:

Roll # 067234708 assessed value \$12,781,000.

Roll # 067234807 assessed value \$10,558,000.

Roll # 067234906 assessed value \$ 9,549,000.

Roll # 067235002 assessed value \$ 8,031,000.

DATED AT THE CITY OF CALGARY THIS 10 DAY OF NOVEMBER 2010.


C.J. GRIFFIN

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.*