

**CALGARY
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, Section 460(4).

between:

ALTUS GROUP LTD., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

L. Lundgren, PRESIDING OFFICER

R. Deschaine, MEMBER

A. Zindler, MEMBER

This is a complaint to the Calgary Assessment Review Board 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: 201492634

LOCATION ADDRESS: 2275 98 AV SE

HEARING NUMBER: 59864

ASSESSMENT: \$17,260,000

This complaint was heard on 5th, day of November, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *D. Mewha, Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *R. Farkas, Assessor, City of Calgary*

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

There were no procedural or jurisdictional matters.

Property Description:

The subject property is a parcel of undeveloped land located adjacent to the Bow River in the south east quadrant of the city. During the course of the hearing, the parties agreed that the parcel is 123.941 acres based on a size correction. The parcel consists of two parts, 72.951 acres of developable land designated R-1 (residential use) and 50.99 acres of land designated S-UN (urban nature use) next to the river which cannot be developed. The entire parcel has been assessed using R-1 land rates because the predominant use of the land is R-1. The current tax rate split is 45% residential and 55% non-residential.

Issues:

1. What is the correct rate per acre to be applied to the subject property?
 - (a) For the residential (R-1) portion of the parcel?
 - (b) For the non-residential (S-UN) portion of the parcel?
2. What is the correct tax rate split?
3. Is the subject equitably assessed with similar properties?

The only issues that the Complainant brought forward in the hearing before the Composite Assessment Review Board (CARB) are those referred to above, therefore the CARB has not addressed any of the other issues initially raised by the Complainant on the complaint form.

Complainant's Requested Value: \$10,150,000 (99% residential and 1% non-residential)

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

1. What is the correct rate per acre to be applied to the subject property?
 - (a) For the residential (R-1) portion of the parcel?
 - (b) For the non-residential (S-UN) portion of the parcel?

The Complainant argued that the subject property is assessed in excess of market value and the use of the land has not been considered in deriving the value. The 50.99 acre S-UN land has no market value because it must be dedicated to urban nature reserve and cannot be sold. The S-UN land use district is intended to limit development to improvements that facilitate passive recreational use.

The Complainant requested the Board to value the S-UN land at a nominal value of \$1.00 because of the restriction on use. In the case of *Calgary (City) v. Alberta (Municipal Government Board) Carma Developers Limited 2004*, the decision acknowledged that a single market value would be assigned to the whole property once the market value of the two kinds of land (residential and reserve) within the parcel had been ascertained. The reserve lands were valued at a nominal value and the Complainant requested the Board to do the same in this case.

With respect to the R-1 land, the Complainant argued that the problem with the assessment is not necessarily the average rate of \$139,261 per acre, but the fact that the entire parcel is assessed using this rate. The Complainant requested that a rate of \$139,261 per acre be applied to the 72.951 acres of R-1 land and a nominal value of \$1.00 to the S-UN land. In support of this request, the Complainant presented six sales comparables with a median of \$134,382 per acre. The revised requested assessment is \$10,150,000.

The Respondent confirmed that the 2010 Assessment for the subject property valued the entire 123.941 acre parcel using R-1 land rates because the predominate use is R-1. The land rate is \$200,000/acre with the following size adjustments:

The first 10 acres are at 100% of the rate = \$200,000/acre

The next 10 acres are at 85% of the rate = \$170,000/acre

The next 30 acres are at 75% of the rate = \$150,000/acre

All additional area is at 50% of the rate = \$100,000/acre

The Respondent submitted that the nominal rate for Environmental Reserve land would be \$20,000/acre not the \$1.00 requested by the Complainant. The Respondent acknowledged that there are no sales of similar properties, however, similar lands throughout the city have been assessed using a nominal rate of \$20,000 per acre. If the reserve land is valued at a nominal rate, then the balance of the land should be valued at a higher rate to account for the actual zoning of the multi-family land which has pockets of commercial use. The indicated value using multi-family, residential and reserve land is \$86,790,000, rather than the requested value of \$10,150,000. If the Complainant's methodology for valuing the land is deemed to be appropriate, it is the City's request that the assessment be increased to \$86,790,000.

In support of the revised value of \$86,790,000, the Respondent presented three sales of multi-residential property which sold for an average price of \$33.80 per square foot. One of the sold properties had a building permit, two properties had a development permit and all are serviced. The Respondent also presented six sales of residential property which sold for an average sale price of \$268,312 per acre.

In considering the correct rate per acre for the subject 72.951 acre parcel of R-1 land, the Board reviewed the sales comparables of similar size parcels put forth by both parties. The Complainant's large parcel development land sales have a median of \$134,382/acre and an average of \$146,970/acre. The two sales comparables presented by the Respondent that are similar in size sold for \$265,158/acre and \$142,288/acre. The Board finds that the sales of large

development parcels support the land rates used by the city to assess this type of property. It is noted that the subject property is assessed an average land rate of \$143,865/acre based on the correct area of 72.951 acres. The Board confirms the land rates applied to the R-1 land portion of the subject property.

The Board finds that there is insufficient evidence to value the entire property based on the various land use designations in place. The Board is not convinced that the three sales of multi-residential property presented by the Respondent are sufficiently similar to the subject multi-family land because the sales comparables are at an advanced stage of development.

The Board will revise the assessment by applying the Respondent's R-1 land rates with size adjustments to the residential portion and a nominal value per acre to the urban nature portion. In the absence of sales, a nominal value of \$20,000 per acre should be applied for assessment purposes because this rate is applied to similar properties.

The property assessment is recalculated as follows:

50.99 acres of S-UN land @\$20,000/ac = \$1,019,800

72.951 acres of R-1 land using the Respondent's R-1 land rates = \$10,495,100

Total Assessment: \$11,514,900 rounded to \$11,510,000.

2. What is the correct tax rate split?

The Complainant requested a 99% residential and 1% non-residential tax split prior to knowing the actual sizes of the residential and urban nature parts of the subject property. The Complainant concluded that the residential portion should be no less than 90%. Based on the corrected areas, the Respondent is recommending a tax rate split of 59% residential and 41% non-residential. The Board confirms the tax rate split of 59% residential and 41% non-residential, based on the corrected areas agreed to by the parties.

3. Is the subject equitably assessed with similar properties?

The R-1 part of the subject property is equitably assessed with similar large tracts of raw residential land using the city's R-1 land use rates with size adjustments. The S-UN part of the subject property is also equitably assessed with similar property using the same nominal rate of \$20,000 per acre.

Board's Decision:

The property assessment is revised to \$11,510,000 based on a tax rate split of 59% residential and 41% non-residential.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF NOVEMBER 2010.



L. Lundgren

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.*