

**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:

F. Wesseling, PRESIDING OFFICER

I. Zacharopoulos, MEMBER

B. Jerchel, 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: 201495264 & 201072709

LOCATION ADDRESS: 514 and 518 – 16th Ave NE

HEARING NUMBER: 59823 and 59867

**ASSESSMENT: 201495264 – \$ 485,000.00
201072709 -- \$ 487,000.00**

This complaint was heard on 1st day of December, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *B. Neeson*

Appeared on behalf of the Respondent:

- *K. Haut*

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

No specific jurisdictional or procedural matters were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint.

Property Description: The subject properties are located along 16th Ave and contain access and associated parking for First Calgary Savings and other retail services, located to the west and east. Both lots contain slightly over 4500 square feet and are titled separately. The properties are classified Commercial-Corridor 1 under the City of Calgary Land Use Bylaw.

Issues:

The complainant raised the following matter in Section 4 of the Assessment Complaint form: Assessment amount and Assessment class.

Presentation of the complainant and respondent were limited to:

- Assessment overstated in relation to comparable properties.
- The property reflects a double taxation as the value of this parcel has already been captured in the assessment of the parent parcel.

Complainant's Requested Value:

201495264 -- \$ 750.00

201072709 -- \$ 750.00

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

The complainant provided information to indicate that the subject properties provide essential parking for the adjacent First Calgary Savings. Land Use Bylaw requirements were outlined that under current requirements 70 parking spaces would be required however the subject parcels only provide 45 parking spaces and essential access and egress. The complainant is requesting a nominal value assessment as these 2 parcels are to be considered essential parking to the parent parcel on which the bank is located. In support of that position in terms of equity the complainant presented a large number of comparables, throughout the city, which are assessed at a nominal value. The complainant maintains the subject lands are similar.

The respondent indicated that the City differentiates in terms of assessment, if the lands either have a caveat or an approved development permit that mandates the parking for an adjacent use. In this situation no caveat or DP requirement is associated with the subject parcels and as such the City assessed the parcels at market value. Vacant land comparables were provided for the Board's consideration. An access easement registered against the title of 514- 16th Ave was provided. This easement, registered by means of a caveat, clearly protects the access and egress to the parking area not only on the subject parcels but also adjacent lands utilized for parking.

Board's Decision: Upon reviewing the verbal and written evidence provided by the parties, the Board considers that the complainant's position had merit and reduced the assessment to \$750.00 for roll # 201495264. With regard to roll # 201072709 the Board finds that no restrictions are in place and as such confirms the existing assessment of \$487,000.00

Reasons: The Board determined that the lot encumbered with the access easement caveat affects the saleability of the lot and as such the market value. The adjacent lot, to the east, is not encumbered by caveat or development permit requirements with regard to parking. Evidence was presented that a building had been located on the lot and had since been demolished. As such the Board determined that this lot is saleable and its assessment should reflect market value.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF December 2010.



F. Wesseling
Presiding Officer

The Board was presented with the following submissions:

Complainant: C1 Evidence Submission of the Complainant to the Assessment Review Board prepared by Altus Group Limited.

Respondent: R1 Assessment Brief prepared by City of Calgary Assessment Business Unit

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.*