

**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:

B. Horrocks, PRESIDING OFFICER

A. Blake, MEMBER

K. Farn, MEMBER

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

ROLL NUMBER:	201414281
LOCATION ADDRESS:	1111 PANATELLA BV NW
HEARING NUMBER:	59255
ASSESSMENT:	\$2,730,000

This complaint was heard on the 2nd day of December, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1

Appeared on behalf of the Complainant:

- Mr. B. Neeson (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- Ms. K. Haut

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

None. The merit hearing proceeded.

Property Description:

The subject property is a 1.71 acre parcel located in the Panorama Hills community in NW Calgary. The site is zoned Commercial – Neighbourhood 2 and is currently vacant.

Issues:

The Assessment Review Board Complaint form contained 5 Grounds for Appeal. At the outset of the hearing, the complainant advised that there was only 1 outstanding issue, namely: the assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.

Complainant's Requested Value: \$1,850,000.

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

Issue Market Value

The Complainant submitted Evidence Submission labelled C-1.

The Complainant, at Page 30, provided details of a sale, of the subject, that occurred on December 12, 2008 for a purchase price of \$1,856,562. The land was purchased by ROYOP (PANORAMA C1A) DEVELOPMENT LTD. from GENSTAR TITLECO LIMITED.

The Complainant, at page 31, provided details of a later sale, of the subject, that occurred on January 22, 2009 for a purchase price of \$2,722,625. The land was purchased by CALGARY CO-OPERATIVE ASSOCIATION LIMITED from ROYOP (PANORAMA C1A) DEVELOPMENT LTD.

The Complainant argued that the second sale was not typical (an increase in the purchase price of slightly under one million dollars in less than forty days) and that the first sale only should be used to determine the market value. He did not produce any evidence to demonstrate that the second sale was not an arm length, market transaction.

The Respondent submitted Assessment Brief labelled R-1.

The Respondent advised there was a correction required to page 13, specifically; the Total should be changed from \$2,609,480 to \$2,730,000 as the original had not been adjusted by the 5% for the corner influence.

The Respondent, at page 19, noted the sworn affidavit of Jeffrey H. Shelby, an agent of the transferee, that "The current value of land in my opinion is \$2,722,625.00. She argued that the best indicator of market value is the sale which occurred closest to the Evaluation date.

The Board finds the sale of the subject, on January 22, 2009, for \$2,722,625 to be the best indicator of market value.

Issue Equity

The Complainant, at page 33, provided the Assessment Summary Report for the adjacent 6.66 acre shopping centre property, noting that the 2010 assessment is calculated to be \$24 / sq. ft. and his request was for an assessment of \$25 / sq. ft. He conceded that the shopping centre parcel was approximately 4 times larger than the subject.

The Respondent, at page 30, provided 2010 Non-Residential Vacant Land Comparables which contained 3 purported comparables with assessed land rates of \$33, \$39 and \$39 / sq. ft. as compared to the subject which has an assessed land rate of \$35 / sq. ft. She advised that the assessment had been prepared using a formula for raw land that was based on \$76 / sq. ft. for the first 20,000 sq. ft. and \$20 / sq. ft. for the remainder plus an additional 5% for the corner influence.

The Board finds the evidence from the Respondent to be more compelling and supportive of the resultant Assessed land rate of \$35 / sq. ft.

Board's Decision:

The 2010 assessment is confirmed at \$2,730,000.

DATED AT THE CITY OF CALGARY THIS 9th DAY OF DECEMBER 2010.



B. Horrocks
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.*