

**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:

S. Barry, PRESIDING OFFICER

J. O'Hearn, MEMBER

P. Pask, MEMBER

This is a complaint to the Calgary 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:	124191503
LOCATION ADDRESS:	9815 Macleod Tr. S.W., Calgary, Ab
HEARING NUMBER:	59229
ASSESSMENT:	\$369,500

This complaint was heard on the 10th day of December, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *B. Neeson, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *E. D'Altorio, City of Calgary*

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

The Complainant advised the Board that the Composite Assessment Review Board record does not show receipt of the Respondent's disclosure document. Nevertheless, the Complainant did receive it and had no objection to the Board giving consideration to it.

Property Description:

The property under complaint is a vacant, irregularly shaped 0.40 acre (17,405 sq.ft.), commercial site in the Haysboro community, adjacent to the west side of Macleod Trail and the Southland Crossing Shopping Centre. The parcel is owned by the City of Calgary and leased to the shopping centre. The land use classification is Commercial – Corridor 3 (C-COR3).

Issues:

The Complaint Form lists a number of grounds for appeal. At the time of the hearing, the Complainant advised that the only issue was equity.

Complainant's Requested Value: \$750

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

The Complainant argues that this is a non-functional parcel that could possibly be used for road widening and currently provides an access into the shopping centre. It is subject to a number of influences including exposure to traffic, size, shape and limited or restricted access. It is the Complainant's contention that the majority of parcels like this, parcels that are leased from the City, are exempt from taxation. The Complainant identifies two equity comparables, one smaller and one larger than the subject, that have lower assessments than the subject. One of these has similar influences to the subject but a much different land use classification –recreational as opposed to commercial and it is exempt - and the other has the same influences and has a commercial land use designation and is not exempt. He also details, as equity comparables, a large number of properties that are deemed to be parking lots by the City and are assessed at a flat rate of \$750. The Complainant points to a parcel at 8312 Macleod Trail as his best comparable and which is assessed as a parking lot at \$750. This parcel is considerable larger at 2.07 acres and has none of the influences that apply to the subject. The Complainant, however, agrees that the property under complaint is not used for parking but as roadway and green space.

The Respondent also emphasized that the subject parcel is not used for parking and that the parking comparables used by the Complainant are lots where parking has been required, under the Land Use Bylaw, for an adjacent development. Those lots are required for that parking and cannot be used for other purposes.

The Respondent advised that exempt status is a taxation issue, not an assessment issue and the Board concurs with this argument. The Complainant did not argue or provide evidence that the subject parcel is either linear property or that it is listed in s.298 of the *Municipal Government Act* (MGA). In the absence of those proofs, s.285 of the MGA requires that the property be assessed. The Respondent advised that it is up to the lessee of the site to apply for exempt status if it qualifies.

The Respondent referenced several parcels in his disclosure document that were assessed in the same manner as the subject parcel; i.e., the land is valued at \$85 per sq.ft. and the resulting calculation is increased or decreased by the various influences that apply to it. In the case under complaint, the value achieved by that calculation has been reduced by 75 per cent to reflect the noted influences. The Respondent's comparables all have the same land use classification and are similar in location to their adjacent, or host, parcel as is the subject to the shopping centre. Where these parcels are used for parking, they are not required to be used for parking under the Land Use Bylaw and are therefore comparable to the subject.

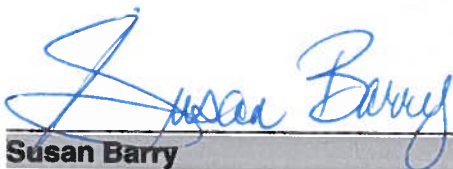
The Complainant advised at the outset that he was advancing an equity argument and not market rates. Although he did question apparent errors in the Respondent's disclosure package, these are not germane to the equity argument and, if the market rate was to have been an issue, this should have been addressed at Rebuttal. Raised at the hearing with no Rebuttal, the Respondent had no opportunity to explain or correct the document. In terms of equity, the Board notes that the second of the Complainant's two comparables identified in paragraph one above, supports the assessment for the subject property.

The key point, however, is that the subject parcel is not a required parking lot in the lexicon of the City's assessment criteria and, therefore, the equity argument related to parking usage, fails. The Board finds that it has been correctly and equitably assessed.

Board's Decision:

The 2010 assessment is confirmed at \$369,500

DATED AT THE CITY OF CALGARY THIS 16th DAY OF DECEMBER 2010.


Susan Barry
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:****NO. ITEM**

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1. Complaint Form for Roll #: 124191503
 2. Complainant's Assessment Brief
 3. Respondent's Assessment Brief

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.*