

**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-26.1, Section 460(4).

between:

Altus Group Limited, COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

H. Kim, PRESIDING OFFICER

D. Pollard, MEMBER

J. Pratt, 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:	068230200
LOCATION ADDRESS:	133 9 Ave SE
HEARING NUMBER:	58789
ASSESSMENT:	\$3,830,000

This complaint was heard on the 14th of December, 2010 at the office of the Assessment Review Board located on the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Property Description:

The subject property is a vacant lot on the corner of 9th Avenue and 1 St SE in the DT1 district of downtown Calgary. It is zoned Direct Control Bylaw 86D2008 and is used as a green space in conjunction with the adjacent office building which is also owned by Palliser Square Properties Ltd. the owner of the subject parcel. It is assessed at the DT1 land rate of \$400/SF with influences of -15% for abutting a train track and -10% for SNC Blend 1 which is applied when a parcel is adjacent to a zone with a lower land rate, in this case MUNI at \$290/SF.

The assessment under appeal also has a +5% corner influence applied, but the Respondent agreed to remove this due to previous Board decisions finding that underpasses restrict exposure for corner parcels on 9 Avenue so that they do not get the benefit of a corner location, and therefore this influence should not be applied.

Issues:

The Complainant identified a number of issues on the Complaint form; however at the hearing the only remaining issues were a correction of the site area and whether the parcel should have an additional -15% allowance for shape/reduced functionality.

Complainant's Requested Value: \$1,198,300 revised to \$2,820,000 at the hearing.

Board's Decision in Respect of Each Matter or Issue:**1. Site area**

The Complainant submitted a detail of Plan 1423LK centred on the subject parcel. He noted that the survey plan shows the subject, Block 5, as 0.27ac. This equates to 11,761 SF in comparison to the assessed site area of 11,983 SF. The Complainant requested that the assessment record be corrected to reflect the smaller parcel size.

Decision and Reasons:

The Board considered that the "0.27 ac." noted on the survey plan could be a result of rounding, and determined that the dimensions noted on the survey plan would more accurately indicate actual site area. There is an arc cut out of the northeast corner, and the curve data was not fully visible in the detail submitted; however based on a straight corner cut, the site area would be 11,969 SF. The area of the segment appears to be about 17 SF based on the numbers visible in the curve data, therefore the 11,983 SF on the assessment record is likely correct.

2. Additional influences for shape/reduced functionality

The Complainant stated that there are no plans to develop the subject parcel because the density was transferred to the adjacent parcel. Further, this parcel is subject to bylawed setbacks on two sides. The Complainant presented an excerpt from the Land Use Bylaw Setback Table which indicated required setbacks of 2.134m on 9 Ave and 5.182m on 1 St SE.

The parcel is narrow and the required setback would leave only 48 feet of buildable width. The Complainant suggested that the required setback results in reduced functionality and the 15% allowance should be applied.

The Respondent stated that the reduced functionality influence was not applied, however agreed that the narrow width of the parcel would result in a significant impact due to the required setback were the parcel to be developed.

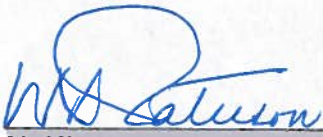
Decision and Reasons:

In view of the narrowness of the site, the Board agrees that an additional allowance for reduced functionality is justifiable, as the Board is of the opinion that the parcel could not be fully developed to the extent allowable under the zoning. Accordingly the influences to be applied to the site are -15% for abutting a train track, -10% for zone blending, and -15% for reduced shape/functionality for a total allowance of -40%.

Board's Decision:

The complaint is allowed, in part, and the assessment reduced to \$2,870,000 based on \$240/SF and site area of 11,983 SF.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF December 2010.


for H. Kim
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE BOARD:

NO.	ITEM
C1	Complainant Form
C2	Complainant's submission
R1	Respondent's submission

APPENDIX 'B'

ORAL REPRESENTATIONS

PERSON APPEARING	CAPACITY
Giovanni Worsley	Altus Group Limited, Complainant
Dorian Thistle	Assessor, City of Calgary, Respondent

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.*