

**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, Revised Statutes of Alberta 2000.

between:

**864100 Alberta Ltd.
Loralie Johnson
(as represented by Altus Group Ltd.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**I. Zacharopoulos, PRESIDING OFFICER
H. Ang, MEMBER
R. Kodak, MEMBER**

[1] 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 2011 Assessment Roll as follows:

ROLL NUMBER: 200144855

LOCATION ADDRESS: 5525 57 ST SE

HEARING NUMBER: 62877

ASSESSMENT: \$11,970,000

[2] This complaint was heard by a Composite Assessment Review Board on July 19th, 2011 at the office of the Board located at 4th floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

[3] Appeared on behalf of the Complainant:

- *Mr. J. Smiley* *Altus Group Ltd.*

[4] Appeared on behalf of the Respondent:

- *Mr. K. Gardiner* *City of Calgary Assessment*

BOARD'S DECISION IN RESPECT OF PROCEDURAL OR JURISDICTIONAL MATTERS:

[5] No procedural or jurisdictional matters were raised.

PROPERTY DESCRIPTION:

[6] The assessment shows the subject property is an improved parcel located near the intersection of 51st Avenue and 57th Street SE, within the Starfield industrial area in SE Calgary. The buildings on the 24.83 acre parcel are assessed through the cost approach to value and the resulting building assessment of \$360,135 is accepted by the Complainant. The land assessment is calculated as follows: \$525,000/acre (identified as the base land rate for I-G land) for the first 10 acres; \$446,250 for the next 10 acres and \$393,750/acre for the remaining 4.83 acres.

REGARDING BREVITY:

[7] In the interests of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

MATTERS/ISSUES:

[8] The matter identified by the Complainant as the basis for this complaint is "an assessment amount". While the Assessment Review Board Complaint (complaint form) form also indicates "an assessment class" to be under question, the Complainant indicated at the time of the hearing that there was no objection to the classification of the subject property.

[9] The Complainant has raised the following issues for the Board's consideration:

1. **Does the Complainant's market evidence produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?**
2. **Does the Complainant's equity evidence produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?**

COMPLAINANT'S REQUESTED VALUE:

[10] \$8,550,000 (as per Doc C-1, pg 1). The complaint form shows \$8,200,000.

BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE:

[11] In addition to the evidence the parties presented at the hearing the Board referenced the Municipal Government Act and associated Regulations in arriving at its decision. We found the following to be particularly applicable to the complaint before us:

- **Municipal Government Act** (MGA) Part 9 and Part 11.
- **Matters Relating to Assessment and Taxation Regulation 220/2004** (MRAT) Section 1; Part 1 and Part 5.1.
- **Matters Relating to Assessment Complaints Regulation 310/2009** (MRAC) Division 2 and Schedule 1.

[12] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. Evidence and argument was put before the Board by the Complainant in that regard; to show the assessment is incorrect and to provide an alternate market value as of July 1, 2010 (see line [10] above). The Board is to determine if (within the direction of the MGA and associated Regulations) it has been swayed to find the assessment is incorrect and if the assessment, being a market value determination as of July 1st 2010, should be revised.

[13] With regard to the individual issues identified above the Board's findings are as follows:

1. Does the Complainant's market evidence produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?

[14] The Complainant has provided 5 market transactions in support of the requested assessment revision. These are found under Doc. C-1, pg 9. The details include address; sale date; sale price; calculated value/acre; lot size and land use. The Complainant draws equally on all 5 sales to arrive at a median indicator of \$316,497/acre and average of \$294,163. In that one of the sales (Complainant's #4) is post-facto to the valuation date of July 1, 2010, the Complainant provides a calculated median of \$330,000/acre if that sale is not considered.

[15] The Respondent has provided 5 market transactions in support of the subject assessment. These are found under Doc. R-1, pg 26. The details include roll number; address; quadrant; sale date; sale price; parcel size; zoning; NRZ; months variance from valuation date; time adjusted sale price; time adjusted price/acre, and influence. No overall conclusion is presented to link the market data with the valuation parameters for the subject property.

[16] The Board finds the Respondent's evidence shows the Complainant's 2008 sales (#2 & #3) have limited services. The Board will not give consideration to the Complainant's post-dated sale (#4). The remaining sales offered by the Complainant (#1 & #5) are 2007 sales and indicate a land use zoning (I-2) not effectively related to the subject's (I-G).

[17] The Respondent identified two occurrences (Hearing Numbers 64637 & 64518) where

the Complainant's evidence before the Board has included industrial land calculations and the Complainant has adopted a land rate of \$525,000/acre. In particular, Hearing Number 64518 is identified as I-G land.

[18] The Board finds this suggests an inconsistency in the Complainant's position regarding I-G industrial land values that does not support his request for the subject property.

[19] In conclusion, the Board finds the Complainant's market evidence does not produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010.

2. Does the Complainant's equity evidence produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?

[20] The Complainant provided 1 purported comparable property as a basis of assessing the subject property (Doc. C-1, pg 9). The property is shown to be a 21.13 acre parcel zoned DC and the calculated effective land rate is 375,000/acre.

[21] The Respondent provided 3 purported comparable properties (see Doc. R-1, pgs 20, 21 & 22) all zoned I-G and all assessed on the same basis (see [6] above) as the subject property.

[22] The Board finds the Complainant has not established a connection between his purported comparable and the subject property as to establish a valuation link. Lacking that, the Board is not prepared to assume one is an appropriate valuation proxy for the other.

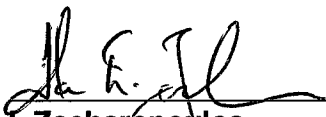
[23] The Board finds the Complainant's equity evidence does not produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010.

[24] The Board finds a year-over-year increase in the assessment of the subject property of 54% as shown by the Complainant is substantial. However, as discussed above, the Board finds the evidence fails to produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010.

BOARD'S DECISION:

[25] The assessment is confirmed at \$11,970,000.

DATED AT THE CITY OF CALGARY THIS 19 DAY OF August 2011.


I. Zacharopoulos
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. Doc. C-1	Complainant's Submission
2. Doc. R-1	Respondent's Disclosure

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.*