

**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 (the Act).

between:

***Northland Village Mall Holdings Inc.
(as represented by Altus Group Ltd), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
R. Roy, MEMBER
T. Usselman, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	019125004
LOCATION ADDRESS:	5120 SHAGANAPPI TR NW
HEARING NUMBER:	64739
ASSESSMENT:	\$640,500

Appeared on behalf of the Complainant:

- *Mr. B. Neeson* *Agent, Altus Group Ltd.*

- Ms. B. Thompson** *Assessor, City of Calgary*
- Mr. H. Yao** *Assessor, City of Calgary*

There were no procedural or jurisdictional matters raised by the parties during the hearing.

The subject property is known as the A & W fast food restaurant in Brentwood. The building is 1,115 sq. ft. and was constructed in 1999. It was assessed as A+ quality. It is situated on 13,348 sq. ft (0.31 acres) of land. The land use designation is Commercial-Regional 3. The property was assessed based on a land rate of \$64 psf and a site influence (-25%) was applied for its triangular shape.

1. The subject property is incorrectly assessed based on the highest and best use as vacant land.

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

1. The subject property is incorrectly assessed based on the highest and best use as vacant land.

The Complainant submitted the subject property should be assessed based on the income approach to value. He referred to the McDonalds located near the subject property and it was assessed based on the income approach to value (Exhibit C1 pages 25- 27). Its overall assessment of \$55.00 psf is less than the City's assessed land rate of \$64.00 psf. He also referenced the adjacent property, the Cheesecake Cafe, which was assessed based on the income approach with a market net rental rate of \$37.00 psf (Exhibit C1 pages 18 & 19).

The Complainant submitted several fast food equity comparables that were assessed based on the income approach to value using a market net rental rate of \$28.00 psf (Exhibit C1 pages 30-45).

The Complainant also submitted 18 restaurant lease rates that ranged from \$25.00 to \$43.00 psf (a median of \$31.50 psf) throughout the City of Calgary between 2008- 2010 (Exhibit C1 page 48).

Based on this, the Complainant submitted the subject property should be assessed based on the income approach to value utilizing typical income parameters including a \$30.00 psf rental rate (Exhibit C1 page 50).

The Respondent submitted the request of \$400,000 does not represent the market value for the land. He indicated that the McDonalds located near the subject property is not comparable as it has 18% site coverage as opposed to the subject at 8%. The Respondent submitted the Complainant's comparables are not freestanding restaurants and have different land use designations than the subject property.

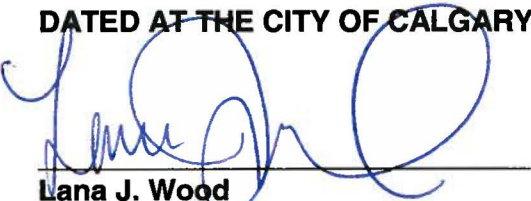
The Respondent reviewed the commercial land rates as applied by the City, particularly CR-3 lands (20,000 sq. ft. at \$64.00 psf and the remainder at \$21.00 psf) (Exhibit R1 page 25). The Respondent submitted several Board decisions in support of his argument that a property cannot be assessed for less than its vacant land value (Exhibit R1 pages 32- 145).

The Board finds the Complainant did not provide sufficient evidence to warrant a change in the assessment. The Complainant failed to dispute the land rate that was utilized by the Respondent; therefore, even if the Board had accepted the \$37.00 psf market net rental rate that was applied to the adjacent property (the Cheesecake Cafe), the subject property's assessment would still have been less than the value of the land. The Board also noted that while the Complainant requested the income approach to value, no income information pertaining to the subject property was provided in support of his position.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment for the subject property at \$640,500.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF SEPTEMBER 2011.


Lana J. Wood
Presiding Officer

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

EXHIBIT NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission

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.*