

**CALGARY  
COMPOSITE 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:**

***The Wedding Wheel Bridal Salon Ltd., as represented by Altus Group Ltd.,  
COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***S. Barry, PRESIDING OFFICER  
M.P. Grace, MEMBER  
D. Pollard, MEMBER***

This is a complaint to the Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

|                          |  |
|--------------------------|--|
| <b>ROLL NUMBER:</b>      | <b>113003404</b>                       |
| <b>LOCATION ADDRESS:</b> | <b>1240 73 Av S.E.<br/>Calgary, AB</b> |
| <b>HEARING NUMBER:</b>   | <b>62741</b>                           |
| <b>ASSESSMENT:</b>       | <b>\$2,130,000</b>                     |

This complaint was heard on the 29th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *A. Izard, Altus Group Ltd.*
- *P. McAleer, The Wedding Wheel Bridal Salon Ltd.*

Appeared on behalf of the Respondent:

- *J. Ehler, City of Calgary*

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

There were no procedural or jurisdictional matters raised at the hearing.

### **Property Description:**

The property under complaint is a free-standing, 12,900 sq.ft., retail property constructed in 1988 and located in the East Fairview Industrial district on a 0.64 acre parcel designated as Industrial-Commercial (IC) in the City's Land Use Bylaw. The property has been assessed using the Income Approach with \$16 per sq.ft. attached to the lower retail area and \$12 per sq.ft. attached to the upper level which is characterized by the City also as retail.

### **Issues:**

1. Should the second level of the building be considered a mezzanine and thereby attract a lower rate for assessment purposes?
2. Should the second level of the building be considered storage space and thereby attract a lower rate for assessment purposes?

**Complainant's Requested Value:** The assessment requested on the complaint form was \$1,750,000. This was amended in the Complainant's disclosure to \$1,460,000 or, in the alternative, \$1,580,000.

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

The Complainant argued that the second floor space should be classified as mezzanine and assessed at \$1.00 per sq.ft., consistently with all other mezzanine space. In support of the argument, the Complainant provided mezzanine comparables and a Mezzanine Space Rental Analysis (the Analysis). Both the comparables and the Analysis are buttressed with income-based assessments, Business Assessment Notices, pictures and rent rolls for, generally, much

larger premises. The assessments of these non-retail mezzanine properties were, primarily, \$1.00 per sq.ft. Leases were introduced by the Complainant to show that, typically, mezzanine areas held by the large tenants identified in the documents were not considered part of the gross leasable areas for the purposes of calculating rent. The Complainant's evidence related, primarily, to very large leased areas and major tenants such as Sobey's, Canadian Tire, Zellers and the like. A very few samples of properties with mezzanines, were smaller retail units contained within a larger shopping centre. As mezzanine space, the Complainant requested a value of \$1.00 per square foot.

The Respondent argued that the second level is completely enclosed and, other than a staircase accessing the main floor, is not open to the floor below and does not qualify as a mezzanine. Pictures provided by the Respondent were intended to show that retail-related operations were carried out in the space, with public access to view gowns and fashion shows that are intended to sell gowns.

The Complainant further argued that the second level is not retail space; it is a showroom and storage only, with no sales registers. In fact, the Complainant introduced the development permit for the expansion area, part of which is in dispute. The permit was issued in 1996 when the parcel was zoned Industrial 2 (I-2) and binds the current and future owners to the uses in the permit: specifically, storage on the main floor and a bridal showroom on the second floor. Retail is specifically precluded from the space in the expansion. The Complainant argued that the new structure was designed and built to comply with the permit and that signage at the stairwell to the second level warns against public access. The Respondent noted that the Land Use Bylaw has changed since 1996 and retail uses are again acceptable in this district.

The Complainant requests that, as an alternative to his main argument, that the space should be considered as storage and be valued at \$3.00 per square foot. While the Respondent disputed the use, he did not challenge the rate.

The Board found that neither Party presented a clear, substantiated definition of what constitutes mezzanine space. Anecdotal commentary is not sufficient for the Board to make that determination. The Board did not, therefore, consider a reduction on the basis that the second floor is a mezzanine.

However, the Board was swayed by the restriction to use outlined in the development permit and the visual evidence presented by both the Complainant and the Respondent. The current land use district may well provide additional uses to those in the permit but that, alone, does not allow the owner to change the current use without reference to the planning approval process. The Board found that the contested space is used in accordance with the permit – it is, in the Board's considered opinion, showroom and storage and not retail. With no argument on the rate requested for storage, the Board reduced the assessment in accordance with the Complainant's alternate request on page 84 of Disclosure document C1.

### **Board's Decision:**

The 2011 Assessment is reduced to \$1,580,000

DATED AT THE CITY OF CALGARY THIS 26<sup>th</sup> DAY OF SEPTEMBER 2011.

  
S. Barry, Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

| NO.   | ITEM  |
|-------|---|
| 1. C1 | Complainant's Disclosure                                    |
| 2. C2 | Altus Group Mezzanine Space Rental<br>Analysis, pp. 1-177   |
| 3. C3 | Altus Group Mezzanine Space Rental<br>Analysis, pp. 178-360 |
| 4. C4 | Development Permit DP96/1524                                |
| 5. R1 | Respondent's Disclosure                                     |
| 6. C5 | Complainant's Rebuttal                                      |

*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.*