

**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:**

***NEW URBAN (CURTIS BLOCK) GP LTD.,  
(as represented by Altus Group Inc.),  
COMPLAINANT***

**and**

***THE CITY OF CALGARY,  
RESPONDENT***

**before:**

***R. Glenn, PRESIDING OFFICER  
R. Kodak, MEMBER  
D. Cochrane, 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 2012 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>068142009</b>
<b>LOCATION ADDRESS:</b>	<b>228 13 Ave SE</b>
<b>FILE NUMBER:</b>	<b>67014</b>
<b>ASSESSMENT:</b>	<b>\$1,100,000</b>

This complaint was heard on Tuesday, the 9<sup>th</sup> day of October, 2012 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 3.

Appeared on behalf of the Complainant:

- M. Cameron, and D. Genereaux, as agents for Altus Group Inc.

Appeared on behalf of the Respondent:

- A. Czechowskyj, as assessor for the City of Calgary

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

[1] There were no issues of procedure or jurisdiction raised by either of the parties at the hearing.

**Property Description:**

[2] The subject property is an assessed land parcel with a site area of 7,137 SF, or 0.16 Acre located between Macleod Trail and 1 Street SE in the Beltline, with a land use designation of Centre City Mixed Use District. As of December 31, 2011, there was still a residence (though not in habitable condition) on the subject property. A demolition permit was applied for on the subject residence on November 15, 2011. The subject residence was apparently demolished in mid-January of 2012.

**Issues:**

[3] The Complainant is not questioning the actual amount of the assessment. The Complainant seeks to change the assessed non-residential mill rate to a residential mill rate at the same assessed value.

**Complainant's Requested Value:**

[4] \$1,100,000

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

**Complainant's Position:**

[5] The Complainant argues that the subject property's mill rate should remain as it was in the past, that is, 100% residential. They say that the subject has historically been assessed under a

residential mill rate as a single family home, and that was its actual use on the condition date. They say there is no evidence to suggest the use throughout the valuation year has changed from residential.

[6] They go on to say that the Respondent changed the mill rate status based on the demolition permit application date (which was November 15, 2011). Their argument is simply that because there was still a house on the subject property on December 31, 2011, it was still a residential property, and therefore it should still have residential mill rate status.

[7] They present in their brief what they suggest are future plans to show that the proposed future development of the site will be part of a residential condominium development. They say that the proposed use is a permitted use according to the City's Land Use Bylaw. The "future plans" provided are more in the nature of a three page advertisement with artist's renderings, an orthographic map, and little else.

[8] The Complainant, when cross examined by the Respondent, admits that the two photographs in their brief which depict the subject as though it was still habitable, are of unknown date. The Complainant also admits under cross-examination that they "have walked by" the subject property, and that it was boarded up in late 2011 (exact date unknown). Notwithstanding that observation, they continue to suggest that the subject should still be classified as residential, if there is a residential building on the site.

[9] The thrust of their argument is that because there was still a residence on the site on December 31, 2011, the site should still be classified as residential.

#### **Respondent's Position:**

[10] The Respondent begins by acknowledging that the value of the subject per se is not in dispute. Seemingly by mistake, they provide a series of photographs showing an adjacent residence which is boarded up and labelled as uninhabitable. They do, however, also provide one photograph of the subject property which appears to be boarded up. The date on all of the photographs is November 14, 2011.

[11] Under cross-examination, the Respondent notes that the subject property in the single subject photograph is "boarded up and ready for demolition". They also confirm that the November 15, 2011 application for a demolition permit ( put into evidence in the Complainant's case) is just that, an application, not an actual demolition permit. There is no further commentary as to whether a demolition permit actually issued subsequently.

[12] The Respondent also confirms their understanding that the subject has been vacant since it was purchased by the current owner in May of 2011. They conclude their argument by reiterating that the Respondent looks at the physical condition of the property as of December 31, 2011. They say that because the subject was ready for demolition on that date, it should be properly classified as non-residential.

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

[13] The Board notes that there is simply no credible evidence demonstrating that the subject was a usable or habitable residence on the condition day. The bulk of the evidence points the other way. Even most of the Complainant's evidence supports the fact that the subject was not

habitable at the relevant time.

[14] The Board herewith finds that the non-residential classification has not been shown to be incorrect or out of keeping with the facts. Accordingly, the Board must confirm the subject classification as non-residential, and dismiss the Complainant's assessment appeal.

[15] The classification as a non-residential property stands. The actual valuation of the subject property per se was not in issue in this case, and therefore is unchanged at \$1,100,000.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF NOVEMBER, 2012.

  
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R. Glenn, Presiding Officer

**APPENDIX "A"**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. R1	Respondent 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.

*For MGB Administrative Use Only*

Decision No.2093-2012-P      Roll No.068142009				
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Vacant Land	Equity	Land Value	Mill Rate Classification