

**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:

**676733 Alberta Ltd.
Harmin Holdings Ltd.
c/o 676733 Alberta Ltd.
(as represented by Altus Group Ltd.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

***I. Zacharopoulos, PRESIDING OFFICER
J. Mathias, MEMBER
J. Rankin, 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:	098015902
LOCATION ADDRESS:	6118 30 ST SE
HEARING NUMBER:	62906
ASSESSMENT:	\$1,650,000

[2] This complaint was heard by a Composite Assessment Review Board on September 6th, 2011 at the office of the Board located at 4th floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

[3] Appeared on behalf of the Complainant:

- *Mr. J. Weber* *Altus Group Ltd.*
- *Mr. J. Maslen* *Altus Group Ltd.*

[4] Appeared on behalf of the Respondent:

- *Mr. R. Farkas* *City of Calgary Assessment*

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

[5] There were no procedural or jurisdictional matters before the Board.

PROPERTY DESCRIPTION:

[6] The subject property is a vacant land parcel located at the southwest corner of 61st Avenue and 30th Street SE, within the Foothills district in SE Calgary. The record shows the 0.69 acre parcel is zoned C-COR3 f1.0h16 and is valued at a base rate of \$65/square foot (sf) for the first 20,000sf and a residual rate of \$28/sf for the remaining land.

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 form (complaint 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 Board finds the Complainant has presented the following issues for deliberation:

1. **Does the Complainant's appraisal of the subject property dated October 15, 2009 serve as an appropriate basis for the determination of market value for assessment purposes as of July 1, 2010?**

COMPLAINANT'S REQUESTED VALUE:

[10] \$585,000 as per Doc C-1, pg 2. The Complainant's requested valuation is based on an appraisal of the subject property dated October 15, 2009 as completed Altus Group Ltd.

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] Both parties also placed Assessment Review Board decisions before this Board in support of their position. While the Board has the utmost respect for the decisions rendered by these tribunals, it is also recognized that these decisions were made in respect of issues and evidence that may be dissimilar to that before this Board. This Board will therefore not give much weight to these decisions unless the issues and evidence are shown to be timely, relevant and materially identical to the subject complaint.

[13] Jurisprudence has established 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 [12] 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.

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

1. **Does the Complainant's appraisal of the subject property dated October 15, 2009 serve as an appropriate basis for the determination of market value for assessment purposes as of July 1, 2010?**

[15] The Complainant looked to the appraisal of the subject property dated October 15, 2009 as the best indicator of market value for the subject property (see Doc. C-1, pg 7). The Complainant submits that the aforementioned appraisal best recognizes the characteristics of the subject property including (i) the subject property's location within an industrial area; (ii) the fact the property is zoned as C-COR3 f1.0h16 and (as per C-1, pg 30) is an island within an I-G zoned industrial neighbourhood; and (iii) the easements granted in favour of the adjoining land locked property to the west as per C-1, pg 90.

[16] The Respondent did not challenge the appraisal's assumptions other than its reliance on non C-COR market data. In response, the Respondent provided under R-1, pg 24 an analysis of 8 land sales (all zoned C-COR but with varying designations) in support of the land rate utilized in the subject assessment. The Respondent's market analysis is focused on zoning and – in light of limited sales activity – concludes that all C-COR zoned properties throughout Calgary are to be assessed uniformly as per [6] above.

[17] The Complainant addressed the Respondent's sales through rebuttal summarized under C-2, pg 4, illustrating factors to distinguish each transaction and question the soundness of grouping these 8 properties to reach a standardized value conclusion.

[18] The Respondent did not refute the Complainant's rebuttal. The Board notes substantial locational and zoning variances (especially with regard to location, allowed floor area ratios and building heights) between the subject and the Respondent's market references.

[19] The Board finds the Respondent's market references have been effectively challenged by the Complainant. Furthermore, the Board finds the Respondent did not refute the Complainant's appraisal of the subject property.

[20] The Board concludes that the Complainant's appraisal of the subject property dated October 15, 2009 does serve as an appropriate basis for the determination of market value for assessment purposes as of July 1, 2010.

BOARD'S DECISION:

[21] The assessment is reduced to \$585,000.

DATED AT THE CITY OF CALGARY THIS 17 DAY OF OCTOBER 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 & Addenda
2. Doc. C-2	Complainant's Rebuttal
3. 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.*