

**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:

678486 Alberta Ltd. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

H. Ang, MEMBER

A. Huskinson, 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:

ROLL NUMBER:	129178208
LOCATION ADDRESS:	10506 SOUTHPORT RD SW
HEARING NUMBER:	66388
ASSESSMENT:	\$1,340,000

This complaint was heard on the 22nd and 23rd day of October, 2012 at the office of the Assessment Review Board located at Floor Number 3 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- K. Fong (Altus Group Limited)

Appeared on behalf of the Respondent:

- E. D'Altorio (City of Calgary)

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

- [1] There were no concerns with the Board as constituted.
- [2] There was one preliminary matter. The Respondent claimed the Complainant did not follow proper disclosure procedures as per Section 8 (2) (c) of Matters Relating To Assessment Complaints Regulation (MRAC) and requested that the Board not hear portions of the Complainant's Rebuttal as per Section 9 (2) of MRAC. Specifically, the Respondent requested that the following pages be disregarded as they contained new evidence:
- C-4 Page 109 through Page 131
 - C-4 Page 136 through Page 157
 - C-4 Page 241.
- [3] The decision on the request was held in abeyance until both the Complainant and the Respondent had presented their evidence. The Board then recessed to review the Complainant's Rebuttal disclosure (C-4).
- [4] The Board decided that the materials could remain in the rebuttal because:
- (a) C-4 page 109 – page 131 rebutted "Actual versus Effective Age" as it appears on pages 75 to 77 of R-1.
 - (b) C-4 page 136 – page 157 rebutted the -30% influence adjustment for topography as it appears on page 77 of R-1.
 - (c) C-4 page 241 was removed by the Complainant.

Property Description:

[5] The subject property is a 24,004 square foot (SF) parcel located in the Southwood community in SW Calgary. The site is improved with a freestanding gas bar with kiosk, that was constructed in 1989 and is considered to be of B quality. The subject is assessed utilising the cost approach to value using the Marshall & Swift replacement cost plus a land value calculated using a base land rate. The land value is adjusted +5% for corner lot, -25% for shape factor and -25% for limited access influences.

Issues:

[6] The Assessment Review Board Complaint Form contained 7 grounds for the complaint. At the outset the Complainant advised there were two outstanding issues, namely: "the subject should be assessed using the income approach instead of the cost approach", and "the base land rate for the first 20,000 (SF) should be \$60/SF versus the \$100/SF assessed".

Complainant's Requested Value: \$540,000 (Complaint Form)
\$540,000 (Hearing)
\$792,000 (Alternate at Hearing)

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

Issue: Does the cost approach or the income approach yield the best indicator of market value for assessment purposes?

[7] The Complainant's Disclosure is labelled C-1.

[8] The Complainant, at page 13, provided a table titled 2012 Municipal Retail Assessment Summary = Income Equivalent which indicates an income equivalent of \$113,000 is required for the Gas Bar when the assessed value of \$1,342,429 is inserted in the income approach along with the parameters of 7.5% Cap Rate, 10% Vacancy Allowance, \$8.00 Operating Costs and 1% Non Recoverable. The Complainant submitted the assessment is inequitable with other gas bars that are assessed using the income approach and a Potential Gross Income (PGI) of \$45,000.

[9] The Complainant, at page 24, calculated the market value using the Income Approach with the parameters of \$45,000 PGI, 10% Vacancy and 7.5% Cap Rate and arrived at a requested assessment value of \$530,000.

[10] The Complainant, at page 26, provided an alternate requested assessment of \$792,000 which was based on "land value only" and a base land rate of \$60/SF.

[11] The Complainant, at pages 42 through 47, provided excerpts from the Property Appraisal and Assessment Administration textbook noting "The cost approach to value is applied to all commercial / industrial (special-use) properties that do not fit the direct sales or income approach assessment models. These are properties that may not actively trade in the market place due to their features or use. They are also properties that often do not have sufficient income and expense data available to effectively apply an income approach to derive a value. The term "special purpose" or "special use" is conceived by appraisers to denote a significant difference between a generally accepted or typical property type, and those that are unusual and have few possible users or owners."

[12] The Complainant, at page 50, provided a table titled Service Station Market Data which contained data on 33 leases that the Complainant has access to and submitted there is an abundance of leasing information indicating there is not a "limited market" for gas bars.

[13] The Complainant, at page 51, submitted a table titled Service Station Market Data and explained that:

- (a) Gas Bars are assessed using a PGI of \$45,000.
- (b) Gas Bars with Convenience Store are assessed using a PGI of \$70,000.
- (c) Gas Bars with Convenience Store and Car Wash are assessed using a PGI of \$105,000.

[14] The Respondent's Disclosure is labelled R-1.

[15] The Respondent submitted that the subject is a freestanding, separately titled gas bar and is not part of a community or neighbourhood centre. The Respondent submitted that the Complainant's comparables are not comparable to the subject as they are all gas bars within larger shopping centres. The Respondent submitted colour photographs of the Complainant's comparables to emphasize its point.

[16] The Respondent, at page 89, submitted a table titled 2012 Costed Gas Bar Equity Comparables which contained 34 gas bars that have been assessed in 2012 using the cost approach.

Issue: What is the base land rate for assessment purposes?

[17] The Complainant, at page 28, provided a table titled 2012 Commercial Sales Summary (MacLeod Trail – C-COR) which contained details of 4 sales of improved properties with Rate/SF ranging from \$64.64 to \$120.93 / SF. The Complainant then utilized the Marshall & Swift costing method to remove the value attributed to the improvements to determine the underlying land value. The median underlying land value was determined to be \$59.39 / SF in support of the \$60 / SF requested value.

[18] The Respondent submitted that in the cost approach the residual land value is impacted by the subjective nature of the Effective Age. The Respondent, at page 77, provided a table titled Altus Comps. The table questions the Effective Age used by the Complainant to arrive at the residual land value for each of its four sales used to support the requested land value of \$60 / SF.

[19] The Respondent, at page 93, submitted a table which contained details of 2 sales during the period February 2010 and May 2011 on 16 AVE NE. The sales exhibited adjusted sale prices of \$108.27 and \$100.14 / SF and were used to establish the 2012 Commercial Land Values for the first 20,000 SF of lands in districts MT2, MT3, MT4 and MT5 along MacLeod Trail.

[20] The Respondent, at page 103, submitted a Commercial Edge report which contained details of a *post facto* sale at 6550 MacLeod Trail SW dated March 1, 2012 for a sale price of \$116.82 / SF as a good indicator of value.

[21] The Board finds the subject is not a special use property, it can be traded in the market place and there is income and expense data available. Therefore it is more appropriate to use the income approach to estimate the market value for assessment purposes.

[22] Having decided the income approach is more appropriate, the base land rate is irrelevant.

Board's Decision:

[23] The 2012 assessment is reduced to \$530,000.

DATED AT THE CITY OF CALGARY THIS 2nd DAY OF November 2012.



B. Horrocks
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Evidence Appendix
4. C3	Complainant Rebuttal (in 2 parts)
5. C4	Complainant Rebuttal Submission
6. C5	Complainant Rebuttal Argument

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 Administrative Use

Subject	Property type	Property Sub-type	Issue	Sub-issue
CARB	Retail	Standalone	Cost approach	Base land rate