

**CITY OF LETHBRIDGE  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

**CARB – 0203-0005/2010**

**IN THE MATTER OF A COMPLAINT** filed with the City of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

**BETWEEN:**

Altus Group Ltd. - Complainant

- a n d -

City of Lethbridge - Respondent

**BEFORE:**

Members:

Mike Vercillo, Presiding Officer

Bill LeLievre, Member

Kent Perry, Member

A hearing was held on Thursday, August 5, 2010 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessments of the following property tax roll numbers:

Roll No./ Property identifier	Assessed value	Owner
1-2-020-4006-0001 0413067;3;7	\$1,074,300.00	Crown Amusements Ltd.

Appeared on behalf of the Complainant:

- nobody

Appeared on behalf of the Respondent:

- V. Blazek
- L. Wehlage

**CITY OF LETHBRIDGE  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

**CARB – 0203-0005/2010**

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

The subject property is an improved parking lot serving the needs of Casino Lethbridge. The site is located at 4006 2 Ave. South, Lethbridge and is adjacent to the casino building and land property. The land contains 269 parking stalls on an assessable land area of approximately 92,782 SF.

**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

**PART C: ISSUES**

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised on the complaint form are as follows:

1. The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.
2. The use, quality, and physical condition attributed by the municipality to the subject property is incorrect, inequitable and does not satisfy the requirement of Section 289 (2) of the Municipal Government Act.
3. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
4. An inadequate allowance was permitted for land-use restrictions associated with by-law requirement for the adjoining parcel.
5. This property reflects Double Taxation as the value of this parcel is captured in the assessment of the parent parcel. As there are restrictive uses required by the licensing granted to the parent parcel Casino License.
6. The assessor has not applied the correct valuation methodology in calculating the assessed value of the subject property, and should apply a nominal value to this assessed parcel of \$500.
7. The highest and best use of the subject site is as a parking lot for the Casino, which is assessed using the income approach to value which captures all of the applicable parking spaces required for this site.

However, as of the date of this hearing, only the following issues remained in dispute and are restated as follows:

1. An inadequate allowance was permitted for land-use restrictions associated with by-law requirement for the adjoining parcel.
2. This property reflects Double Taxation as the value of this parcel is captured in the assessment of the parent parcel. As there are restrictive uses required by the licensing granted to the parent parcel Casino License. Therefore, the assessor has not applied the correct valuation methodology in calculating the assessed value of the subject property,

**CITY OF LETHBRIDGE  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

**CARB – 0203-0005/2010**

and should apply a nominal value to this assessed parcel of \$750.00

**ISSUE 1:** An inadequate allowance was permitted for land-use restrictions associated with by-law requirement for the adjoining parcel.

**The Complainant** provided excerpts from the City of Lethbridge Land Use Bylaw focusing specifically on parking and loading requirements. The Complaint claimed that the casino would likely be zoned as an “Amusement Facility” and therefore based on the City’s parking guidelines would require 824 parking spaces. The subject would provide 269 of those spaces. As a result of the City’s parking requirements for the casino and the casino’s licensing from the Alberta Liquor and Gaming Commission, the Complainant concluded that the subject is “inextricably linked” to the casino property and operations and therefore the assessment should have a nominal land value of \$750.00.

**The Respondent** provided copies of the development permits issued by the City of Lethbridge for both the casino property located at 3756 2 Ave South, and the adjacent subject property. The June 24, 2003 Development Permit for the casino showed that the property was zoned C-H (Highway Commercial) and that although 431 parking spaces were required; the property actually provided 502 parking spaces. The October 28, 2004 Development Permit for the subject property showed another 220 parking stalls would be built and that no other conditions or restrictions were noted on the permit. The Respondent also provided copies of email correspondence from the City’s Development Department stating that each property received separate development permits and that they “....are not tied together in any way”.

**Decision: Issue 1**

In view of the above considerations, the CARB finds as follows with respect to Issue 1: That the subject property contains no land-use restrictions or conditions associated with the parking by-law for the adjoining parcel. This finding is based on the subject’s and the adjoining property’s zoning and parking requirements as evidenced on their respective development permits.

**ISSUE 2:** This property reflects Double Taxation as the value of this parcel is captured in the assessment of the parent parcel. As there are restrictive uses required by the licensing granted to the parent parcel Casino License. Therefore, the assessor has not applied the correct valuation methodology in calculating the assessed value of the subject property, and should apply a nominal value to this assessed parcel of \$750.00

**The Complainant** provided copies of various documentation in support of this issue and is summarized as follows:

**CITY OF LETHBRIDGE  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

**CARB – 0203-0005/2010**

1. MGB Board Order 032/10, Home Depot vs. City of Calgary. This case concluded that the separately titled parcel of land associated with the Home Depot on MacLeod Trail was required for parking and therefore integrated with that store. The parcel's assessed value was deemed to have been captured in the assessed value of the Home Depot parcel and therefore was given a nominal value of \$750.00.
2. Millrise Shopping Centre in Southwest Calgary. A City of Calgary ARB finding that the separately titled parking lot and containing a Restrictive Covenant on Title was an integral part of the shopping centre and therefore given a nominal assessment of \$600.00.
3. Phil's Restaurant in Southwest Calgary. Again, a City of Calgary ARB finding that the separately titled parking lot was an integral part of the restaurant due to the fact that the restaurant property could not achieve the parking bylaw requirement on its own and therefore given a nominal assessment of \$750.00.
4. Costco Wholesale in Northeast Calgary. Two decisions from the MGB reducing two land parcels to the adjacent Costco to a nominal assessed value of \$750.00 each. Again, presumably due to parking requirements, restrictive covenants were noted on the Land Title documents.
5. Casino Calgary in Northeast Calgary. Again, a City of Calgary ARB finding that the separately titled parking lot was an integral part of the casino due to parking bylaw requirements.
6. Red Deer shopping centre assessments were provided that attempted to show how parking component is assessed in conjunction with the shopping centres.

**The CARB** notes that it was particularly difficult to understand some of the documentation in the absence the Complainant during the hearing.

**The Respondent** again pointed out that the subject property is unlike much of the evidence submitted by the Complainant on this issue. Specifically, the subject provides additional parking to an already abundant number of parking stalls existing on the adjacent casino property. The subject has no restrictive covenants on Title and the casino property that it supports already meets and exceeds the required parking under by-law. The Respondent was able to point out that in each case of the Complainant's evidence there were restrictive covenants on Title specifically due to parking by-law shortfalls.

**The Respondent** also provided a copy of the Alberta Gaming and Liquor Commission casino licensing requirements. He noted that there were no specific parking requirements contained within the document. He noted the only related requirement was to meet all municipal, provincial and federal legislation. In this case, the Respondent concluded that the casino had already met the parking requirement on the casino property and that the subject merely added more parking to an already surplus number of parking stalls.

**CITY OF LETHBRIDGE  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

**CARB – 0203-0005/2010**

**Decision: Issue 2**

In view of the above considerations, the CARB finds as follows with respect to Issue 2: This property does not reflect Double Taxation as there are no restrictive uses required by bylaw or zoning and none are apparent on the Title of the subject property. Moreover, the CARB finds no pertinent restrictive uses exist because of the licensing granted to the parent parcel Casino License.

**PART D: FINAL DISPOSITION OF COMPLAINT**

The complaint is denied and the assessment is confirmed as follows.

Roll No./Property identifier	Value as set by the CARB	Owner
1-2-020-4006-0001 0413067;3;7	\$1,074,300.00	Crown Amusements Ltd.

It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this 7<sup>th</sup> day of August, 2010.



Presiding Officer

