

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

**between:**

***AEC International Inc., COMPLAINANT***

**and**

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

**before:**

***H. Kim, PRESIDING OFFICER***

***R. Deschaine, MEMBER***

***J. Pratt, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of Property assessments prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>101050409</b>
<b>LOCATION ADDRESS:</b>	<b>6336 Macleod Trail SW</b>
<b>HEARING NUMBER:</b>	<b>59292</b>
<b>ASSESSMENT:</b>	<b>\$4,830,000</b>

This complaint was heard on the 7<sup>th</sup> and 8<sup>th</sup> days of July, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1 and continued with simultaneous written summaries from both parties due August 6, 2010 and written rebuttal due August 13, 2010.

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

This complaint was heard at the same time as Hearing Numbers 59168 and 59207, the subject of CARB 1215/2010-P. The decisions on the preliminary matters are detailed in that order.

**Property Description:**

The subject is a 75,888 SF (1.74 ac) vacant parcel adjacent to the Home Depot store located at 6500 Macleod Trail SW. It is used for parking and access to the store, and houses a small fenced-in section of the seasonal garden centre. It is zoned C-R3 f0.32 h18 and assessed at a rate of \$85/SF with a 25% reduction due to some of the land being required to provide parking for the store.

**Issues:**

The 25% reduction for the parking requirement is not at issue. The base land rate prior to the application of the reduction is the basis for the complaint. The Complainant identified the following issues on the Complaint form:

- The assessor is required to take into account the principle of equity in arriving at the assessment. As similar and comparable properties are assessed at lower rates, the valuation placed upon the Home Depot property is in excess. The subject property assessment is overstated and inequitable when compared to other similar properties.
- The property assessment is in excess of the legislated market value standard as required by the Municipal Government Act and regulations.

**Complainant's Requested Value:**                      \$3,915,000

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

**Issue 1: Equity**

The Complainant stated that applying the same base rate to vacant land without regard for parcel size ignores the principle of economies of scale which is well established in the marketplace. The subject land is 1.74 acres, significantly larger than the parcels presented by the Respondent.

The Respondent presented 14 comparables of .04 to 1.87 acres on Macleod Trail between 36 Ave and 73 Ave to demonstrate that all properties carry a base rate of \$85/sf. Various influences may be applied to result in rates that can be as low as \$60/SF however the base rates show that the subject is equitably assessed.

Decision and Reasons:

There was insufficient evidence to determine whether the subject parcel is inequitably assessed with other vacant parcels on Macleod Trail. The Board agrees that economies of scale exist in the marketplace but was not presented with evidence as to what the specific adjustments would be relative to the smaller parcels presented.

Issue 2: Market ValueComplainant's Position

The subject parcel provides parking spaces for the parent store parcel at 6500 Macleod Trail. The land use is C-R3 f0.32 h18 which allows a maximum Floor Area Ratio of 0.32 and a maximum height of 18 metres. The current use is legal and conforming, and to recognize the site area required to provide 78 parking spaces for the store the Respondent has applied a 25% deduction to the 2010 assessment. The assessed value is \$3,707,172 per acre. The market value is \$3,000,000 per acre.

In support of this, the Complainant presented four sales of 1.7 to 10.25 acre vacant retail parcels in McKenzie Town, Panorama and Walden. With adjustments for size, the indicated value per acre is \$1,474,193 to \$1,989,364. The sales were recognized to be in an inferior location; therefore the requested \$3,000,000 per acre base rate for the subject is supported by the sales.

Respondent's Position

The base land rate for Macleod Trail was determined from sales that occurred between March 2008 and November 2009:

#	Address	Land Area (SF)	Sale Price	Sale Date	Rate/SF	Property use
1	5307A Macleod Tr	44,431	5,500,000	08-May	124	Hotel
2	7212 Macleod Tr	44,866	2,900,000	09-Nov	65	Former McDonalds
3	5720A Macleod Tr	31,363	3,500,000	09-Nov	112	Office, retail
4	4001-4007 Macleod Tr	58,806	3,500,000	08-Mar	60	Retail, gas bar (7/11)
5	8306 Horton Road	200,865	20,100,000	08-Nov	100	Vacant land
6	9950 Macleod Tr	194,277	13,800,000	08-Sep	71	Sportmart/Petcetera
7	3911 Macleod Tr	31,860	3,209,000	08-May	101	Auto sales
<b>Average</b>					<b>90</b>	

There were not enough sales to analyze whether zoning affected the sale price, but it did not appear to be the case, therefore the land rates were not adjusted based on zoning. Most of the sales are improved properties that were determined have sold for land value. The only vacant land sale was at 8306 Horton Road SW, and it sold for \$100/SF in Nov 2008.

The Respondent recognizes that some of the sales need to be time adjusted; however there were not enough sales on Macleod Trail South to determine an appropriate time adjustment. Land rates in the Beltline and Downtown were considered, as there was some comparability to Macleod Trail rates in those areas. The 2010 assessments compared to 2009 for the Downtown and Beltline declined 11.4% and 20.5% respectively, therefore Macleod Trail South land rates were reduced by 15%, the average of the two. The 2009 vacant land rate of \$100/SF

was supported by the Horton Road sale. A 15% reduction provides \$85/SF applied for 2010.

Unsold listings are not market value, but can be an indicator of value. The Respondent referred to several listings on Macleod Trail with asking rates per square foot of \$100 to \$230. On balance these also support the assessment.

**Decision and Reasons:**

The land comparables presented by the Complainant required significant adjustment in comparing the sale prices to the value of the subject. The Board is of the opinion that location is of primary importance and could not determine whether the adjustments applied to the Complainant's sales were a reasonable reflection of market value.

The Board reviewed the Respondent's sales, and determined that some had substantial improvements and were not comparable. Sale 1 is a 50-room hotel and sale 3 has 28,566 SF building area on two levels. The Respondent considers these to be land value sales because they sold for more than the capitalized income stream; however the Board does not agree that it necessarily follows the sale prices represented the vacant land values. Sale 5 drove the vacant land values for the 2009 and 2010 assessments, but occurred prior to the change in market conditions, and has substantially greater development potential than the subject. The Board did not consider this parcel to be comparable to the subject.

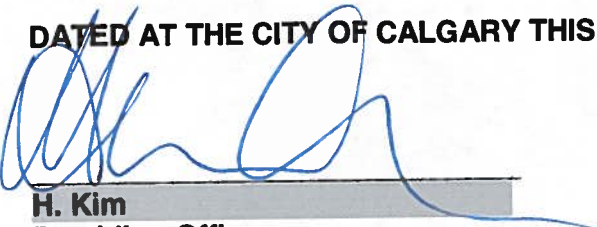
The Board did not agree that any conclusion could be drawn from the asking prices of unsold listings, other than the market value is lower than the asking price. Therefore the listing prices of \$100 to \$230/SF were not of assistance.

The Board concluded that sales 2, 4, 6 and 7 were the best indicators of vacant land value. The average and median are \$74.25/SF and \$68/SF respectively. These sales occurred between May 2008 and November 2009 and would warrant a downward adjustment. The Board finds that they support the requested assessment of \$3,000,000/acre (\$69/SF).

**Board's Decision:**

The complaint is allowed, and the assessment reduced to \$3,915,000 based on \$3,000,000 per acre with a 25% reduction applied.

DATED AT THE CITY OF CALGARY THIS 8 DAY OF September 2010.



H. Kim  
Presiding Officer

**APPENDIX "A"****DOCUMENTS RECEIVED AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1C	Complainant's evidence
2R	Assessment Brief
3R	Board Order MGB 032/10 dated March 10, 2010
4C	Complainant's rebuttal
5R	Excerpt from An Advocacy Primer, 3rd ed. Lee Stuesser
6R	Excerpt from AR310/2009 <i>Matters Relating to Assessment Complaints Regulation</i>
7C	Complainant's Summary and Argument
8R	Respondent's Summary and Argument
9C	Complainant's Rebuttal
10R	Respondent's Rebuttal

**APPENDIX 'B'****ORAL REPRESENTATIONS**

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
Peter Milligan	Lawyer, Miller Thomson LLP - Counsel for the Complainant
Linda Shimek	AEC International Inc.
Paul Frank	Lawyer, City of Calgary - Counsel for the Respondent
David Zhao	Assessor, City of Calgary
Edwin Lee	Assessor, City of Calgary
Tanya Woo	Assessor, City of Calgary

*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.*