

**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(4).

between:

Colliers International Realty Advisors, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

P. Irwin, PRESIDING OFFICER

R. Glenn, MEMBER

J. Rankin, MEMBER

A hearing was convened on September 3rd, 2010 in Boardroom 4 at the office of the Calgary Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta in respect of the Property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER	LOCATION ADDRESS	HEARING NUMBER	ASSESSMENT
068206309	323 15 AV SW	57906	\$1,880,000
068206200	327 15 AV SW	57907	\$1,880,000
200940617	329 15 AV SW	57905	\$1,880,000
068205905	333 15 AV SW	57908	\$1,880,000
068205806	337 15 AV SW	57909	\$1,880,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The above properties are vacant parcels of land, each with an area of 6983 sf, adjacent to each other, in southwest Calgary, located in the BL3 part of the Beltline District. Its Land Use Designation is Centre City Multi-Residential High Rise District (CC – MH). Each property is currently encumbered by a lease and is used for surface parking by the occupants of the high-rise office tower next door. The land rate was assessed at \$270 per sf for 2010.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

There were no objections to the composition of the Board, nor were there any jurisdictional matters.

PART C: MATTERS/ ISSUES

Is the land assessment in excess of its market value as of the July 1, 2009 valuation date?

On September 3rd, the Board heard the complaint related to the property at 323 – 15th Avenue SW (the “subject property”), but subsequently the parties agreed that, because the matter, issues, facts, evidence, and arguments for the other properties were the same for the four adjacent parking lots, all five properties could be grouped together for purposes of a decision.

The Complainant provided a disclosure package that included tables of comparables, methodology on Time Adjustments, Building Adjustments, the Beltline Plan (density section), Assessment Summary Reports, sales reports (from RealNet and Alberta Data Services), and a decision from a 2010 Composite Assessment Review Board (CARB).

While the Complaint Form listed 12 reasons for complaint, the evidence and presentation was focussed only on market valuation. The current assessment was based on a rate of \$270 per sf; however the requested assessment was a rate of \$135 per sf, which would yield an assessment of \$942,705.

The Complainant's table listed 23 Beltline land sales that had occurred over a 30-month period prior to the valuation date and one post facto sale on July 24, 2009. The Complainant discussed four approaches to time adjustment and indicated that 3 out of the 4 were used to analyze the sales data. The data was adjusted to recognize the passage of time (in a declining real estate market) between the sale date and the valuation date and the analysis produced an overall weighted average ~\$183 per sf. This figure was achieved by a time adjustment of – 1.94% per month to the actual sale date. Further, as only four of the comparables were purely vacant, the analysis next adjusted the sales prices to remove the value of the improvements in order to get at a figure as if the land in each sale was vacant. This yielded a mean price of ~\$135 per sf.

The Complainant noted that a property should be assessed in isolation to adjacent properties, whether or not it is part of an assembled group of properties, according to the *Municipal Government Act*. He then discussed the concept of “Floor Area Ratio” (FAR) which means the quotient of the gross floor area of a building divided by the gross site area. He noted that, whereas the maximum density, in FAR, for the subject's general area was 5 - 7, that figure was not realistically achievable for the subject property because of its small size, setback requirements, etc. and to assess the subject property as if an FAR of 5 - 7 were achievable would produce an inequity. He also noted that, in the Beltline, residential land was valued at \$270 per sf, whereas the commercial land rate was \$215 per sf. He argued that the subject property should be assessed as non-residential. He stated that re-development won't occur until the lease runs out in 2017, so for now the subject is a holding property.

The Respondent provided a comprehensive Assessment Brief that included maps, photos, sales comparables, RealNet and Alberta Data services reports, and some 2010 Board decisions. For the five sales comparisons provided, the parcel sizes ranged from ~2,251 sf to ~6,515 sf and sales prices ranged from \$196 to \$313 per sf, with a median of \$269. All five had improvements on them. All of the comparables were in the Beltline District. Three were zoned as Direct Control (DC) and two

as CC-MH.

The Respondent re-analyzed the Complainant's sales comparisons by using only the transactions in the 12 months prior to the valuation date and arrived at an average value of \$250 per sf, from which a line graph was then produced and it showed a slightly upward-sloping line of Sale Price Per Square Foot (SPPSF), implying that prices were going up during that 12 month period.

The Respondent discussed the ARB decision #0416/2010 for properties at 216 & 220 – 17 Av SW in which a value of \$155 per sf was applied for 2010 assessment purposes and suggested there might have been a different outcome had that Board had all the pertinent data in front of it.

The Respondent pointed out that subject property and its four neighbouring properties were all fully serviced lots.

Board's Findings and Reasons in Respect of Each Matter or Issue:

While the Respondent's sales comparables appeared to support the assessed value of the subject property, the Board gave them less weight because: (i) the DC zoning clouded the comparability of three; (ii) the much smaller size of the other two clouded the comparability of those two; and (iii), all five sales were for properties that included improvements which likely contributed to some of the sales price. All five were income producing and one has been fully renovated. In the final analysis, the Board found the Complainant's evidence more compelling. After applying time adjustments and building adjustments, the Complainant's figure of ~\$135 per sf for pure vacant land appeared to be the most fair and equitable value for the subject property and thus the Board reduces the 2010 assessment of the subject property to \$135 per sf. For the 6,983 sf parcel, this translates to an assessment of \$942,500 (rounded). This value and calculation was also applied to the other four adjacent parcels.

PART D: BOARD'S DECISION(S)

The complaints are allowed and the Board reduces the 2010 assessments in accordance with the following table:

ROLL NUMBER	LOCATION ADDRESS	AREA (SQ. FT.)	ASSESSMENT RATE PER SQ. FT.	REVISED ASSESSMENT (ROUNDED)
068206309	323 15 AV SW	6,983	\$135	\$942,500
068206200	327 15 AV SW	6,983	\$135	\$942,500
200940617	329 15 AV SW	6,983	\$135	\$942,500
068205905	333 15 AV SW	6,983	\$135	\$942,500
068205806	337 15 AV SW	6,983	\$135	\$942,500

DATED AT THE CITY OF CALGARY THIS 18th DAY OF October 2010.

P. Irwin
Presiding Officer

APPENDIX "A" : ORAL REPRESENTATIONS

PERSON APPEARING	CAPACITY
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<i>Scott Meiklejohn</i>	<i>representing Colliers International Realty Advisors Inc.</i>
<i>Roy Natyshen</i>	<i>Assessor, City of Calgary</i>
<i>Darren McCord</i>	<i>Assessor, City of Calgary</i>

APPENDIX "B" : DOCUMENTS RECEIVED BY THE ASSESSMENT REVIEW BOARD

Document C – 1	Complaint Form (considered)
Document C – 2	Complainant's Brief (considered)
Document R – 1	Respondent's Brief (considered)

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.*