

**CALGARY
COMPOSITE ASSESSMENT REVIEW BOARD (CARB)
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:

834738 Alberta Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

J. Fleming, PRESIDING OFFICER

K. Farn, MEMBER

I. Zacharopoulos, MEMBER

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

ROLL NUMBER: 075028209

LOCATION ADDRESS: 1813 37 St. SE

HEARING NUMBER: 56634

ASSESSMENT: \$1,000,000

This complaint was heard on 2nd day of Sept, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom12.

Appeared on behalf of the Complainant:

- *D. Wong for the Complainant*
 L. Wong for the Complainant

Appeared on behalf of the Respondent:

- *I. McDermott; City of Calgary for Respondent*

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

There were no procedural or administrative matters raised.

Property Description:

The property is an unimproved parcel of land which is used as a parking lot in support of the operations of a restaurant located on an adjacent parcel. The site has an area of 9,436 square feet and is zoned Commercial Corridor 2. It is valued on the comparable sales approach to value.

Issues:

What is the best evidence of Market Value for the land?

Complainant's Requested Value:

\$300,000

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

There is insufficient evidence to justify the increase in the land value on the subject property from 2009 to 2010.

Board's Decision:

The appeal is allowed and the assessment is changed to \$300,000

REASONS:

The Complainant's issue was the increase in the land value of over 300% from 2009 (2009: \$300,000, 2010: \$1,000,000) They indicated that the land was only to be used for parking associated with the adjacent restaurant (which had no other parking) and so could not be developed or sold, however they could not provide any evidence that the City required them to maintain the land for parking for the Restaurant. The Complainant's evidence on the land value was found to be flawed in some cases, because they were calculating land value from analysis of improved properties and removing the "estimated" improvement costs, leaving residual value to the land. There was no support for the value of the improvements, and so no conclusions could be reached on the land value. In reviewing the Complainant's comparables provided in the Respondent's brief, it was evident that the land values supported the method used by the City in land value calculation when one considered the size of the site (First 10,000 sq. ft. at \$107/sq. ft. and the balance at \$17/sq. ft.).

The Respondent confirmed that the land values for these properties were consistent with the City's land valuation model for Commercial Corridor land. The City model valued the first 10,000 square feet of land area at \$107 per square foot, and any remaining site area over 10,000 square feet at \$17 per square foot. The Respondent indicated that since the subject site was less than 10,000

square feet, the entire property was valued at \$107 per square foot.

Through questioning the Respondent's representative indicated he had no knowledge of how the 2009 assessment was completed and also observed that he did not think that all Commercial Corridor land in the city experienced a 300% increase in value, although he could not explain why this property would experience that much of an increase.

In evaluating the evidence of both parties, the CARB found that in its experience, it was reasonable to expect that there were parking requirements that the Restaurant must observe, and that the subject property was required to be used for restaurant parking. The subject and the restaurant parcels had been purchased together in 1990 and in the representation of the Complainant the subject had always been used for parking. The CARB recognized that these facts would likely lead to some unquantifiable reduction in value for the parking lot.

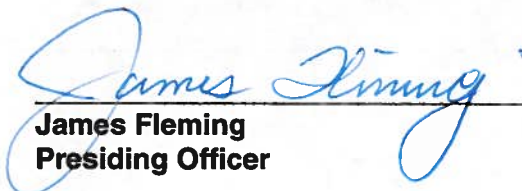
Beyond that, the Board notes that all of the Respondents sales submitted to support the \$107 per square foot value in 2010, were sales that would have been available in preparation of the 2009 assessment. Even on an unadjusted basis, the selected properties sales prices would have supported a value in excess of \$100 per square foot for Commercial Corridor land for the 2009 Assessment. With the subject's 2009 assessment at \$300,000 or \$46.61 per square foot, it is clear that the 2009 assessment of the property does not appear to have been based on Comparable sales of similarly zoned land.

Accordingly because the Board concludes that the subject property is likely required for parking and there is usually some adjustment in value to recognize that fact and because the 2010 assessment does not appear to have been prepared on the same basis as 2009, the CARB concludes that the land value of the subject is the same as the value in 2009 at \$300,000. The Board notes that from the evidence of the Respondent, the time adjustment for sales in July 1st 2008 to June 30th 2009 was under 5%, so using the 2009 assessed value for the 2010 assessment yields a value within an acceptable range.

In making this decision, the CARB realizes that generally previous years assessments have no role in present year assessments. In this case however, the magnitude of the change, the fact that the City indicated that comparable properties did not increase this much and the fact that the Respondent's own comparable sales, which were available for the 2009 assessment, did not support the 2009 assessment of the subject, convinced the CARB that relating the 2009 assessment to the current year was a valid approach in this case.

Finally, the CARB notes that it would be in the best interest of both parties to attempt to source the permits for the subject and the restaurant to determine what the parking requirements are.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF September 2010.


James Fleming
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB**

No.	Item
1.	Exhibit C1
2.	Exhibit C2
3.	Exhibit R1

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.*