

**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:

598737 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:	045028305 045028008
LOCATION ADDRESS:	725 17 Ave. NW 739 17 Ave. NW
HEARING NUMBER:	56651 56649
ASSESSMENT:	\$1,060,000 \$2,120,000

This complaint was heard on 3rd day of September, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- P. Thymaras *for the Complainant*

Appeared on behalf of the Respondent:

- T. Johnson; City of Calgary *for Respondent*

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

At the outset of the hearing the Complainant and the Respondent agreed that both complaints 56651 and 56649 could be heard together as the properties were located adjacent to one another and the issues were identical for both properties. The Complainant and the Respondent agreed to use their respective briefs prepared for 739 17th Ave NW as the basis for their presentations. No other preliminary matters were raised.

Property Description:

The two properties are unimproved lots with 725 having an area of 8,987 square feet and 739 having an area of 17,979 square feet. Both lots are leased as parking lots to businesses on 16th Ave NW. The 739 property has corner lot and traffic collector influences and the 725 has no influences. The Land Use designation for both properties is Multi Residential – Contextual Medium Profile. Both properties are valued on the Direct Sales Comparison method.

Issues:

Should the subject properties be assessed in a matter similar to neighbouring properties with the same land use?

Complainant's Requested Value:

725 17 Ave. NW	\$585,000
739 17 Ave. NW	\$1,170,000

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

The properties are best valued using the Sales Comparison approach.

Board's Decision:

The complaint is denied and the assessments are confirmed at \$1,060,000 for 725 17 Ave NW and \$2,120,000 for 739 17 Ave NW

REASONS:

The Complainant advised that the City has rezoned the area on the south side of 17th Ave NW which includes their property. This redistricting was completed in concert with 16th Ave N upgrades which limited access to properties by installing medians and signalled intersections on 16th Ave. While the Complainant noted this as a general observation he did not highlight specific impacts that this situation had on the value of his land. The Complainant did provide 7 equity comparables (C2 pg. 11) with the same zoning, and located between the 600 and 900 block of 17th Ave. NW. All these properties had much lower assessments (between \$35 and \$68 per square foot) and the

Complainant suggested that this justified a rate of \$65 per square foot for his properties. Analysis of these comparables showed that all but one were in fact residential properties assessed as residential as opposed to the sales comparison approach used for the subjects. It is inappropriate to compare properties where the properties were in a different assessment class (Residential vs. Non Residential) and where the assessment was prepared on a different basis. This is particularly the case in an appeal based on equity. Accordingly no weight was placed on these 6 comparables.

The remaining comparable was shown to be virtually identical to the subjects; it too was unimproved with the same land use designation and a similar use as a parking lot. That property was assessed at \$35.36 per square foot.

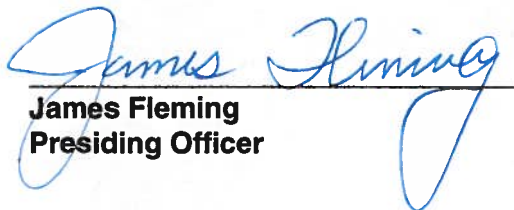
The Respondent provided 9 Equity Comparables of land only parcels (R1 pg. 19) located on 17th Ave NW between the 500 block and the 1000 block all of which supported the assessed value of the subjects. In addition, the Respondent provided 5 land only sales comparables (R1 pg. 21) all of which they argued tended to support the assessment. Of interest to the parties and the CARB was that one of the land sales noted by the Respondent (which sold at \$112 in 2008) was the Comparable raised by the Complainant with an assessment of \$35.36? In reviewing the matter, the Respondent admitted that this was an error and it should be assessed as a non-residential land only parcel rather than as a single family residential.

In reviewing the evidence of both parties the CARB accepts that the current assessment of 607 17th Ave NW is in error. Given that fact, the CARB places greater weight on the remaining equity and sales comparables of the Respondent and accordingly confirms the assessments as noted above.

The CARB notes that the decision is premised on the fact that the assessment of 607 17th Ave. NW was an error; otherwise the Complainant would have a stronger equity argument. Given that fact, the CARB strongly suggests that the City take steps to correct the 2010 roll for the 607 17th Ave NW property in accordance with Municipal Government Act RSA 2000 Chapter M-26 Section 305 (1).

Finally, there was some discussion at the hearing concerning the ability of the Complainant to erect dwellings on the properties and qualify for residential assessment. The CARB would draw the attention of the parties to Matters Relating to Assessment and Taxation Regulation Alberta Regulation 220/2004 Section 11 which specifies that the property must be occupied by the owner in order to maintain the residential assessment.

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	Completed Complaint Form 739 17 th Ave NW
2.	Exhibit C2	Complainant's Brief 739 17 th Ave NW
3.	Exhibit C3	Completed Complaint Form 725 17 th Ave NW
4.	Exhibit C4	Complainant's Brief 725 17 th Ave NW
5.	Exhibit R1	Respondent's Brief 739 17 th Ave NW
6.	Exhibit R2	Respondent's Brief 725 17 th Ave NW

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.*