

**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:

Big Red Holdings Alberta Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

H. Kim, PRESIDING OFFICER

J. Rankin, MEMBER

A. Wong, 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:

ROLL NUMBERS	LOCATION ADDRESSES	HEARING NUMBERS	ASSESSMENTS
156002024	15311 Bannister Rd. SE	58582	\$1,520,000
156002107	15303 Bannister Rd. SE	58583	\$769,500
156002206	15219 Bannister Rd. SE	58597	\$884,500

This complaint was heard on the 20th day of September, 2010 at the office of the Assessment Review Board located on the 3rd Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Property Description:

The subject complaints are of three contiguous but separately titled vacant parcels in the Midnapore district in Southeast Calgary. The parcels are zoned Direct Control Bylaw 112Z92 which allows the Permitted and Discretionary uses of the C-1A Local Commercial District with the additional discretionary use of surface parking allowed only in conjunction with a Gaming Establishment – Bingo development on the adjacent lands.

- Parcel 1 is 20,253 SF and was previously used to fulfil the parking requirement for the Bingo hall on the adjacent property. In 2009 it assessed at the nominal parking rate of \$750, but the building is now a car dealership and the parcel is no longer required for parking. For 2010 it is assessed at market value at the city-wide C-N1 rate of \$76/SF for the first 20,000 SF and \$20/SF for the balance.
- Parcel 2 is 10,126 SF and is assessed at \$76/SF.
- Parcel 3 is 10,125 SF and has +15% ACD influence applied to the base rate of \$76/SF. This is in error and the assessment should have been the same value as Parcel 2.

Issues:

The Complainant listed the following issues on the Complaint forms:

- The City has not recognized the fact that this land is required for operation of the business located next door.
- The value used to determine the value of the land is higher than current market value.
- A discussion was held with the City on February 10, further discussions may be held.
- The City did not recognize the zoning restrictions.

Some issues were abandoned. At the hearing the following issues were argued and considered:

1. The City has not recognized current market value for the lands
2. The City has assessed improved properties in the immediate area at a lower value. Fairness and Equity.

Complainant's Requested Values:

ROLL NO	ADDRESSES	REQUESTED ASSESSMENTS	
		ORIGINAL	REVISED AT HEARING
156002024	15311 Bannister Rd. SE	\$750	\$405,000
156002107	15303 Bannister Rd. SE	\$550,000	\$810,120
156002206	15219 Bannister Rd. SE	\$550,000	\$405,040

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

Issue 1: Market Value

Complainant's Position

The Complainant agrees that Parcel 1 is no longer required for parking and should be assessed at market value. The 2010 assessment represents a 26% increase over 2009 and this is not supported by sales. The Complainant presented 5 sales that sold for an average of \$49.22/SF:

	Address	Area	Rate	Sale date	Comments
C1	4528 Bow Tr SW	12,985	80.86	Aug-08	corner lot, busy streets
C2	3711 Rundلهorn Dr. NE	19,914	60.25	Sep-08	corner lot, busy streets
C3	111 Panatella Bv. NW	74,487	36.55	Jan-09	corner lot, busy streets
C4	3110 36 St SE	19,053	33.33	Jan-09	corner lot, busy streets
C5	388 McKenzie Towne Gate SE	74,052	35.11	Sep-08	corner lot, busy streets
	Average		49.22		

The sales were all of corner lots which are given a +5% influence by the Respondent. The best sales are C2 and C4 due to size and location. The average of the two is \$46.79.

Respondent's Position

The Respondent presented vacant land rates for commercially zoned vacant land. Sale C4 could not be verified and was not included in the analysis of sales. Further, it was considered an improved sale because it was an old gas station with a 2,000 SF building which has not been demolished. The Respondent presented vacant land sales with C-N2 zoning to support the land rates used in the assessment and highlighted the paired sales R4 and R7 to demonstrate that land values did not decline:

	Address – under 20,000 SF	Area	Rate	Sale date
R1	4528 Bow Tr SW	12,985	80.86	Aug-08
R2	3711 Rundلهorn Dr. NE	19,907	60.25	Sep-08
R3	635A Southland Dr. SE	19,774	68.27	Nov-07
	Address – over 20,000 SF			
R4	1111 Panatella Bv. NW	74,487	36.55	Jan-09
R5	285A St Moritz Dr SW	95,960	23.17	Nov-07
R6	388 McKenzie Towne Gate SE	74,052	35.11	Sep-08
R7	1111 Panatella Bv. NW	74,487	24.92	Dec-08

Further, the subject properties were listed for sale around the valuation period. The Respondent presented an Avison Young brochure offering Parcel 1 for \$1,400,000 and Parcels 2 and 3 for \$700,000 each. These listing prices show the assessment is reasonable.

Complainant's Rebuttal

The parcels did not sell, and in fact Parcel 1 did have an offer that was accepted but did not close due to inability to obtain financing. They are now listed at \$1,200,000 and \$600,000.

Decision and Reasons:

The Board does not agree that any conclusion can be drawn from the asking prices of unsold listings, other than the market value is lower than the asking price. The Board gives little weight to the listing evidence, but is of the opinion that the assessment should not exceed the listing price. The Board does not agree that sales R4 and R7 show the market did not decline between 2008 and 2009. The Board notes that the second sale, to Calgary Co-operative Association Limited, likely involved a very motivated purchaser and finds that this sale does not refute the generally accepted view that vacant land values did decline between 2008 and 2009.

The Board is of the opinion that the best comparable is Rundلهorn Dr NE, sale C2 and R2, submitted by both parties. It is of a similar size to the subject with similar zoning. Sale C4

appeared to be out of the general range of values for a parcel of that size, could not be verified by the Respondent and therefore was not considered. Sale C2/R2 is on a corner while the subjects are not, therefore a 5% downward adjustment to the sale price is warranted, to \$57/SF.

Issue 2: Equity

Complainant's Position

The Complainant presented 12 comparables of improved properties in close proximity to the subjects, with parcel sizes between 20,134 and 155,005 SF with assessments per SF of land area between \$29.01 and \$54.07. The average of the improved properties' land rate is \$40.41. Equity dictates that the land rate of the subject parcels should be \$40/SF.

Respondent's Position

The comparable improved properties have different zonings from the subject and significantly larger parcel sizes. Generally larger parcels will have a lower rate per SF than smaller ones. Further, C-COR3 has a different land rate from C-N1.

Decision and Reasons:

Alberta Regulation 310/2009, *Matters Relating to Assessment Complaints Regulation* (MRAC) specifies rules for disclosure and consequences of failure to disclose:

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

Equity was not listed as an issue on the original complaint form, but was listed in the Complainant's submission C2 and was not objected to by the Respondent. Under the circumstances, the evidence was heard and considered despite the provisions of 9(1) of MRAC. The Board is of the opinion that since it did hear the evidence, it can decide on the issue. The Board finds that the improved properties submitted have different zoning and are to varying degrees substantially larger than the subject parcels and therefore could not determine whether the subject parcels were inequitably assessed with the comparables.

Board's Decision:

The complaints are allowed, in part, and the assessments reduced as follows based on \$57/SF:

Roll No.	Address	Assessment
156002024	15311 Bannister Rd. SE	\$1,150,000
156002107	15303 Bannister Rd. SE	\$577,000
156002206	15219 Bannister Rd. SE	\$577,000

DATED AT THE CITY OF CALGARY THIS 4th DAY OF October 2010.


H. Kim

Presiding Officer

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

NO.	ITEM
C1	Complainant Form for each roll number
C2	Complainant's Submission
C3	Complainant's Rebuttal
R1	Respondent's Submission

APPENDIX 'B'**ORAL REPRESENTATIONS**

PERSON APPEARING	CAPACITY
Reid Hutchinson	Complainant
Randy Farkas	Assessor, City of Calgary, Respondent

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.*