

**COMPOSITE
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-26.1, Section 460(4).

between:

Cushman & Wakefield Property Tax Service, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER

B. Jerchel, MEMBER

J. Joseph, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) 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: 079005005 / 079005104 / 079006003 / 079006102 / 079006201

LOCATION ADDRESS: 117 – 17 Ave. SE / 121 – 17 Ave. SE / 118 – 18 Ave. SE / 120 – 18 Ave. SE / 122 – 18 Ave. SE Respectively

HEARING NUMBER: 57830 / 57829 / 57827 / 57825 / 57824 Respectively

ASSESSMENT: \$1,590,000. / \$1,620,000. / \$536,000. / \$567,000. / \$1,070,000. Respectively

This complaint was heard on 12th day of October, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- J. Goresht

Appeared on behalf of the Respondent:

- D. Satoor

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

The five (5) properties referenced herein are all adjacent and have one ownership so it was proposed, and agreed to by both parties, that the Complaint(s) could be heard as one given the same issue(s) and evidence would be referenced for each of the individual roll numbers. The CARB approved this Procedural matter.

Property Description:

Roll numbers 079005005 and 079005104 are each 50 foot lots that front 17th Avenue SE. They are improved; however, the improvements are not considered to be of any significant value. Roll numbers 079006102 and 079006201 and 079006003 are all essentially vacant parcels that form the parking lot(s) for the adjacent 17th Avenue properties. These parcels, which front 18th Avenue SE are 25 Ft., 50 Ft. and 25 Ft. respectively in width. All of the properties are subject to the same Land Use Amendment 24Z2007 which essentially utilizes the RM-7 Residential High Density guidelines but which restricts the maximum gross floor area to a 4.4 floor area ratio (FAR).

Issues:

The grounds for appeal identified on the Complaint Form are as follows:

1. The assessment is incorrect as it is too high.
2. The assessment is inequitable in comparison to similar properties.
3. The assessment is incorrect as to the nature, the size, the use, the condition, the actual and potential income, the actual and typical expenses, the appropriate sales comparables, the correct CAP (sic) rate and inherent obsolescence of the property.

At the Hearing the Complainant confirmed with the CARB that the single Issue to be considered by the CARB is that of Equity in terms of the assessed value of the subject sites compared to similar properties.

Complainant's Requested Value:

In their Exhibit C-1 the Complainant revised their requested assessments to the following:

Roll # 079005005 - \$1,270,220. / Roll # 079005104 - \$1,296,020. / Roll # 079006003 - \$358,150. / Roll # 079006102 - \$378,757. / Roll # 079006201 - \$716,300.

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

The single issue to be considered by the CARB, as identified above, is the matter of equity with regard to the base land rate applied to derive the assessed value of the subject sites.

The Complainant introduced evidence (Exhibit C-1 pg 2) of 18 near-by Beltline located equity comparables all of which are assessed with a land rate of less than \$225/Sq. Ft. The Complainant highlighted two properties (220 – 17 Ave. SW & 216 – 17 Ave. SW) that are both categorised, according to their respective Assessment Summary Reports, as being in a 100%

Non-residential assessment class with commercial land use and which are assessed at a land rate equivalent of \$155/Sq. Ft. and \$154/Sq. Ft. respectively.

With regard to the 18th Avenue properties, the Complainant introduced 3 properties that front directly onto 18th Avenue which are assessed at \$215/Sq. Ft. and \$116/Sq. Ft. Additionally the Complainant introduced a further 3 properties with 17th Avenue addresses but which are a full block in depth and thus also have frontage on 18th Avenue and all of which are assessed at \$230/Sq. Ft. or less.

The Respondent explained to the CARB that there are two land rates applied in the Beltline, one being \$215/Sq. Ft. of site area for commercial properties and the other being \$270/Sq. Ft. of site area which is applied to multi-family residential lands. To support the rate applied to the multi-family land the Respondent provided (Exhibit R-1 pg 25) five (5) sales of multi-family sites located within the Beltline which ranged from a low of \$196/Sq. Ft. to a high of \$313/Sq. Ft. and which indicate a median of \$269/Sq. Ft. which they contend supports the applied multi-family rate of \$270/Sq. Ft. The Respondent also introduced into evidence (also R-1) a brief related to the 18th Avenue properties and explained that these properties are not actually in the Beltline district but rather, lying south of 17th Avenue they are in the Chinook district which has a base land rate of \$165/Sq. Ft. that is the basis for the assessment for these sites. Utilizing the same 5 sales referred to above, the Respondent suggested that the appropriate assessment for these sites should be \$270/Sq. Ft. as these sites are subject to the same land Use guidelines as the 17th Avenue fronting sites. The Respondent also referenced two recent CARB decisions (ARB 0993/2010-P & ARB 0948/2010-P) where a rate of \$270/Sq. ft. was confirmed.

The CARB is, in this instance, primarily concerned with the issue of equity and the evidence of the Complainant clearly shows 18 properties, all located within the Beltline market area, are assessed at a land rate of \$215/Sq. Ft. or less. It is the contention of the Respondent that the Land Use Designation is the determining factor as to which base land rate should be applied, \$270 for multi-family or \$215 for commercial. In support of their case the Respondent offers 5 sales of multi-family parcels; however, these parcels are small, ranging in size from 2,251 Sq. Ft. to 6,515 Sq. Ft. in size with this latter parcel having sold at a rate of \$196/Sq. Ft. so essentially the Respondent has only 4 sales to support their contention. It is not unusual in real estate to find that there is an inverse relationship between parcel size and the sales price indicator. That is to say a smaller site will often sell at a higher selling rate /Sq. Ft. of site area than a larger parcel. As a result, the CARB is not convinced by the evidence of the Respondent as it relates to the Beltline land rates. With regard to the referenced CARB Decisions introduced by the Respondent, the Board notes that the circumstances and evidence surrounding those decisions may well have been significantly different than what is before us at this Hearing and each Complaint must be adjudicated bases upon its individual merits.

With regard to the 18th Avenue properties, the CARB is not convinced by the Complainant's two (2) equity comparables. These 18th Avenue properties are, according to the information of the Respondent, in a different zone and which zone has a different base land rate. The CARB is of the judgement that to suggest a base different rate be applied based upon location only would lead to inequities in this zone.

Board's Decision:

The following assessments are reduced to:

Roll # 079005005 - \$1,270,000.

Roll # 079005104 - \$1,290,000.

The following assessments are confirmed:

Roll # 079006003 - \$ 536,000.

Roll # 079006102 - \$ 567,000.

Roll # 079006201 - \$1,070,000.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF October 2010.



C.J. GRIFFIN

Presiding Officer

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.*