

**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, Revised Statutes of Alberta 2000 (the Act).

between:

Tricycle Lane Ranches Ltd.
(as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
E. Bruton, MEMBER
D. Julien, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER: 113000640

LOCATION ADDRESS: 7110 15 ST SE

HEARING NUMBER: 68318

ASSESSMENT: \$2,030,000

This complaint was heard on 28th day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *C. Van Staden*

Appeared on behalf of the Respondent:

- *T.B. Johnson*

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

The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The subject property is a 28.22 acre land and improvement parcel located along the Bow River, east of Deerfoot Trail and north of Glenmore Trail in the Burns Industrial community of southeast (SE) Calgary. The property has a unique recreational and industrial use, having both golf related activity and industrial retail activity on site. Accordingly the subject is zoned both Recreational and Industrial General (I-G) with Direct Control (DC-40Z93). The subject property contains a 2,166 square foot (SF) retail building and a 128 SF trailer, both built around 1900.

The subject is assessed using both the Cost Approach for improvements and the Sales Comparison Approach for land. A more detailed assessment analysis is as follows:

- The 16.22 acre golf portion of the property, occupied by Golf Canada, is assessed at \$20,000 per acre for land and \$176,694 for a golf rental building. The total assessment for this portion of the property totals \$501,094.
- The remaining 12.00 acres of the property, occupied by Burnco, is assessed at a \$525,000 per acre industrial land rate on the first 10.00 acres and reduced a maximum 75% for negative influences such as lack of services, limited access and floodway concerns. The remaining 2.00 acres are also assessed at \$525,000 per acre and also reduced the same 75% factor for the same negative influences, but is reduced a further 15% to recognize diminishing returns on excess land. The total assessment for this portion of the property totals \$1,535,625.

Issues:

There were a number of matters or issues raised on the complaint form; however, as of the date of this hearing, the Complainant addressed the following issue:

- 1) The aggregate assessment per acre applied to the 12.00 acre Burnco site does not reflect market value for assessment purposes.

Complainant's Requested Value:

\$1,740,000

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

ISSUE 1: The aggregate assessment per acre applied to the 12.00 acre Burnco site does not reflect market value for assessment purposes.

The Complainant provided a 104 page document entitled "2012 Property Tax Assessment Complaint" that was entered as "Exhibit C1" during the hearing. The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- Testimony that the Burnco site was confirmed by the assessor in 2009 and no changes to the site since that time. Assessment rates used by the Respondent in the 2012 assessment are the same as was used in 2011. A CARB decision from CARB 2278/2011-P reduced the assessment rate in 2011 and the Complainant requested that this reduction be continued.
- A copy of the CARB 2278/2011-P decision. The Complainant highlighted from the decision "the Board found that the Complainants comparables more closely matched the conditions of the Burnco site, land designation notwithstanding. Using comparables with the S-FUD land use designation creates a comparison to the Burnco site that reflects quite severe development constraints..." The Board used S-FUD land use comparables at 1100 226 AV SE, 16555 104 ST SE and 16625 104 ST SE in supporting their decision.
- Excerpts from Land Use Bylaw 1P 2007. The Complainant provided information that the Burnco site is severely restricted in its development potential because it is governed by this bylaw. The bylaw affects development on the Burnco site because it is considered part of a flood fringe and overland flow due to its proximity to the Bow River. The Complainant stated that the site has been compromised almost annually with flood related issues, particularly in 2005.
- Four vacant land sales comparables were provided, all within the SE quadrant of Calgary. The comparables varied in size from 5.22 acres to 30.02 acres. Sales dates varied from February, 2009 to February, 2011. The sales rates for these comparables varied from \$151,599/acre for the February, 2009 sale, to \$97,093/acre for the most recent February, 2011 sale. Three of sales comparables used were the same as were used in the CARB 2278/2011-P hearing. The most recent sale was not used. The Complainant indicated that this analysis showed that property values have declined since 2009 and that the most recent land sale is unserviced with a land use designation of I-G, similar to the subject's Burnco site.
- A valuation technique known in the industry as the "4-3-2-1 rule" whereby land is assessed for 40% of its depth at one rate, 30% at another rate, 20% at another rate and 10% at another rate. The valuation was used in an effort to support the requested assessment.

The Respondent provided a 133 page document entitled "Assessment Brief" that was entered as "Exhibit R1" during the hearing. The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- An assessment chart of the subject property specific to the Burnco site. The chart highlighted the assessment rate of \$127,969 per acre on the 12 acre site in dispute. This assessment rate is within the range of the Complainant's sales comparables

assessment rates.

- Literature and information from City of Calgary land development districts. Highlighted were the Industrial Districts and specifically the Industrial-General District. According to the information, the district provides for "...a range of industrial uses with some provision for support uses to serve the industrial area. It is intended for sites mainly in the interior of industrial areas." Also highlighted was the S-FUD Special Purpose – Future Urban Development District. According to the information, the district provides for "...newly-annexed lands and lands where future urban development is expected to occur. It discourages subdivision of annexed lands until urban development occurs." Based on this information, the Respondent claimed that comparing S-FUD land sales to I-G land sales for assessment purposes is not appropriate as their uses and locations are significantly different.
- A chart of 22 industrial land sales that occurred in the SE quadrant of the city and within the assessment year. The parcels varied in size from 0.86 acres to 30.02 acres. The 30.02 acre site was also used by the Complainant in his sales comparable analysis referenced above. The Respondent concluded that based on these sales comparables and others not shown, the analysis supports the \$525,000 per acre of I-G land assessment. Therefore, the subject property is equitably assessed at this rate.
- A chart of assessment influence factors. The chart indicated that assessment rates are adjusted to account for any positive or negative influences that the property being assessed may experience. Of note were:
 - Flood Plain: -30%
 - Limited Access: -25%
 - No Services: -50%

Also of note is that the adjustments are capped at 75%. In other words no land assessment can receive a reduction of more than 75% for any negative influence from the standard assessment rate which in this case is \$525,000 per acre.

The CARB finds the following with respect to this issue:

- That the Respondent has clearly recognized the lack of services, limited access and floodway negative influences affecting the subject property as noted from the detailed information of the assessment. According to the negative influence chart these negative influences would total an adjustment factor of 105%. Since this would be nonsensical, the Respondent has arbitrarily (without explanation or support) capped the negative influence factor by policy at 75%.
- That the CARB agrees with the finding of the prior year's CARB decision from CARB 2278/2011-P. Specifically, "the Board found that the Complainants comparables more closely matched the conditions of the Burnco site, land designation notwithstanding. Using comparables with the S-FUD land use designation creates a comparison to the Burnco site that reflects quite severe development constraints..."
- That the 30.02 acre industrial land sale comparable at \$97,093/acre used by both parties supports the Complainant's request for a reduced assessment and certainly reinforces the decision of last year's CARB.

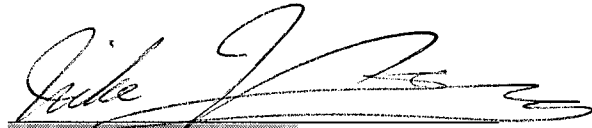
Board's Decision:

The complaint is accepted and the assessment is revised at \$1,740,000.

The CARB provides the following reasons for the decision:

- The subject property is very unique with a dual recreational and industrial use. It has an uncommon shape with no services, limited access and close proximity to the Bow River; it is also affected by flooding issues and severe development restrictions. While none of these negative influences are in dispute, their affect on the assessment is. In this case, the 75% capped reduction factor on the assessment rate does not serve this property well in terms of reflecting its fair market value.
- While the CARB generally does not favour comparing the assessments of S-FUD property to I-G because of their differing uses and locations, in this case they are again useful sales comparables because of the severe development restrictions common to both S-FUD and the subject.
- Although there is some concern that the S-FUD sales comparables are becoming dated, the most recent sale of the I-G property (common to both parties evidence) serves to support last years CARB decision and the Complainant's request.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF July 2012.



Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure

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.*

(For MGB Office Only)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Other Properties	Vacant Land	Sales Approach	Land Value