

**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:

Melcor Developments 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 property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

HEARING NUMBER	ROLL NUMBER	LOCATION ADDRESS	ASSESSMENT
67731	201276391	1625 120 AV NE	\$1,160,000
67744	201413176	11995 16 ST NE	\$1,510,000
67746	201413184	11915 16 ST NE	\$1,510,000
67749	201413200	11805 16 ST NE	\$3,700,000

This complaint was heard on 27th 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:

- K. Buckry

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. During the course of the hearing, the Complainant raised a *Municipal Government Act (MGA)*, Section 299 or 300 issue with regards to two pages of the Respondent's evidence, stating that the information contained therein was requested but never received.

In reviewing the contested information, the CARB noted that the two pages contained definitions of non-residential assessment influence adjustments, such as definitions for corner lots, limited access, no services, shape, topography and a few others. In considering the matter, the CARB determined that the definitions were generic in nature, defining terms that were often used in assessment or appraisal parlance and would therefore not compromise the Complainant's case in any way. Therefore, the CARB decided to not remove the two contested pages from the Respondent's evidence and proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The subject properties are industrial vacant land parcels located in the Stoney Industrial district of northeast (NE) Calgary. They are zoned as Industrial General (I-G) and are assessed using the Sales Comparison approach to value. According to the 2012 Assessment Explanation Supplements, the properties are specifically described as follows:

- 1625 120 AV NE is 1.458 acres or 63,509 square feet (SF) in size and is assessed at \$800,000 per acre with no assessment adjustments for influences.
- 11995 16 ST NE is 1.891 acres or 82,373 SF in size and is assessed at \$800,000 per acre with no assessment adjustments for influences.
- 11915 16 ST NE is 1.893 acres or 82,446 SF in size and is assessed at \$800,000 per acre with no assessment adjustments for influences.
- 11805 16 ST NE is 4.884 acres or 212,766 SF in size and is assessed at \$800,000 per acre on the first 3 acres and \$600,000 per acre on the remaining 1.884 acres, with a 5% corner lot assessment adjustment factor for influences.

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 subject properties does not reflect market value for assessment purposes and should be no more than \$650,000 per acre.

Complainant's Requested Value:

ROLL NUMBER	LOCATION ADDRESS	ASSESSMENT
201276391	1625 120 AV NE	\$947,700
201413176	11995 16 ST NE	\$1,229,150
201413184	11915 16 ST NE	\$1,230,450
201413200	11805 16 ST NE	\$3,178,600

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

ISSUE 1: The aggregate assessment per acre applied to the subject properties does not reflect market value for assessment purposes and should be no more than \$650,000 per acre.

The Complainant provided a 48 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 and aerial photographs showing that the subject properties are located west of Deerfoot Trail and between 115 AV NE and 120 AV NE with relatively poor access points and limited infrastructure as it is a developing area. They are assessed at the same rate per acre as comparable properties on the east side of Deerfoot Trail and near the airport that have better access points, exposure and infrastructure.
- Testimony with aerial photographs showing that the vacant land parcel at 11805 16 ST NE was not a corner lot as it was assessed. The photographs showed that 15 ST NE running along the north/south border of the property had been closed as of the assessment condition date.
- A chart of alternative requested assessments for the subject properties. The request was based on reducing the current assessment rate of \$800,000 an acre by 25% to account for limited access negative influences suffered by the subject properties.
- A CB Richard Ellis marketing brochure for the subject properties that have been for sale since late 2010 or early 2011. The brochure showed list or asking prices for the smaller properties of \$1,500,000 each, while the larger property had a list or asking price of \$3,900,000. According to the Complainant only one offer has been received by the owner.
- A March, 2012 offer to purchase the 4.89 acre vacant land parcel at 11805 16 ST NE for \$3,178,500 or approximately \$650,000 per acre. This offer was accepted in April, 2012. This post-facto sale formed the basis of the Complainant's requested assessments.

The Respondent provided a 25 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:

- Testimony that the Stoney industrial neighborhood "is a new and developing area and access is sufficient for the current volume."
- Agreement with the Complainant's request to have the additional 5% corner lot influence removed from the assessment of 11805 16 ST NE, revising the assessment to

\$3,530,000.

- Six "airport area" industrial land sales comparables were provided. Five of the six properties were sales that occurred on the east side of Deerfoot Trail while the one at 11885 16 ST NE, on the west side of Deerfoot Trail, is very near the subject properties. Sales dates varied from February, 2009 for the 11885 16 ST NE property, to April, 2011. The comparables varied in size from 0.87 acres to 3.35 acres. The property at 11885 16 ST NE was 1.85 acres. The time-adjusted sales rates of the comparables varied from \$745,522/acre to \$919,540/acre. The property at 11885 16 ST NE was \$807,500/acre. The Respondent concluded that based on these sales comparables the subject property is equitably assessed at \$800,000/acre.
- A 2011 Colliers International marketing brochure for WAM Development Group. The brochure is marketing vacant land properties varying in size from 2.86 acres to 5.48 acres very near the subject properties. The asking prices for these properties were \$800,000 per acre.

The CARB finds the following with respect to this issue:

- That the marketing information of both the subject properties and other properties in the Stoney Industrial area have asking prices of approximately \$800,000/acre, equal to their assessment rates per acre. The marketing brochures for these properties are at least one year old, and only the one property provided by the Complainant had sold.
- That the 11805 16 ST NE post-facto sale indicates a value of \$650,000/acre.
- That the sales comparables of the Respondent are predominately on the east side of Deerfoot Trail in areas with superior infrastructure (access) and exposure.
- That the one sale comparable provided by the Respondent, in the same neighborhood as the subject properties, is the most dated (2009) of all of the Respondent's comparables.

Board's Decision:

The complaint is accepted and the assessments are revised as follows:

HEARING NUMBER	ROLL NUMBER	LOCATION ADDRESS	ASSESSMENT
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67744	201413176	11995 16 ST NE	\$1,229,000
67746	201413184	11915 16 ST NE	\$1,230,000
67749	201413200	11805 16 ST NE	\$3,170,000

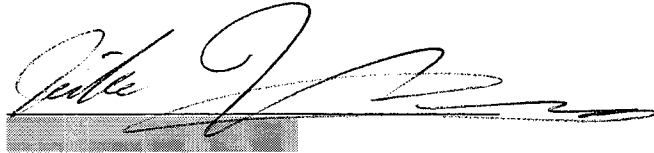
The CARB provides the following reasons for the decision:

- The subject properties are in a new and developing area to the west of Deerfoot Trail. The infrastructure in this area is inferior to comparable properties on the east side of Deerfoot Trail, yet they are assessed at the same rate. The post-facto sale of one of the subject properties provides the most recent evidence that the \$650,000 per acre assessment rate as requested by the Complainant is justified.
- The sale date of one of the subject properties, although post-facto, is nearer to the assessment date (July 1, 2011) than the Respondent's February, 2009 sale of a

comparable property in the Stoney Industrial area.

- The 2011 asking prices of both the subject properties and other nearby properties are at \$800,000 and may reasonably be expected to sell for less as evidenced by the post-facto sale.

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