

**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:

**Roycom (6) Property Fund Ltd. Roycom (6) Nominee Inc.
c/o Courtenay Real Estate Services Inc.
(as represented by Altus Group Ltd.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
B. Bickford, MEMBER
R. Kodak, MEMBER***

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

ROLL NUMBER:	098017809
LOCATION ADDRESS:	2665 61 Ave SE
HEARING NUMBER:	67123
ASSESSMENT:	\$205,500

The complaint was heard on July 03, 2012, in Boardroom 3 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- J. Smiley; M. Robinson

Appeared on behalf of the Respondent:

- I. McDermott

Board's Decision in Respect of Procedural or Jurisdictional Matters

[1] There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description

[2] The subject property is a 0.783 Acre (34,122 sq.ft.) (square foot) parcel of vacant land located in the south east quadrant of the municipality. The assessment reflects a base land rate of \$350,000 per acre, further adjusted – 25%, for limited access.

Issues

[3] The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment
4. an assessment class

[4] However, at the hearing the Complainant withdrew matter 4 and led evidence and argument only in relation to matter 3, an assessment amount. The Complainant set out 9 grounds for the complaint in section 5 of the complaint form with a requested assessment value of \$750; however, only the following issue was in dispute at the hearing:

- Is the market value of the subject property a nominal value as a result of the mutual access easement agreement registered on the Land Title Certificate?

Complainant's Requested Assessment

The Complainant requested an assessment of \$750.

[5] The Complainant argued that the subject property is impeded by a mutual access easement agreement that allows for vehicular access to the adjacent parcels. It was submitted that the encumbrance results in no plausible development potential for the parcel, and as a result, the parcel would have only a nominal value.

[6] In support of the argument the Complainant referred the Board to Part III of the mutual access easement agreement, registered as 021 189 844 on the subject's Land Title Certificate, wherein the limitations and restrictions applicable to the access easement area are set out.

[7] The Complainant further argued that the subject's 2010 assessment was reduced to a nominal value of \$750 by the Assessment Review Board as set out in ARB 0534/2010-P, and that the subject's 2011 assessment was also set at a nominal value of \$750 by the Assessor.

[8] The Respondent argued that the limitations and restrictions applicable to the easement area of the mutual access easement agreement affect only a portion of the subject parcel (and the adjoining parcel), and not the entire subject parcel as submitted by the Complainant. It was argued that the remainder of the parcel was not impacted by the rights-of-way as shown on plan 0113492 and therefore the Complainant's request for a nominal assessment amount was inappropriate.

[9] In support of the argument, the Respondent referred the Board to the definitions included at Part 1.1 of the mutual access easement agreement, which state:

1.1 "Access Easement Area" means:

Those portions of the Lot 3, Block 7, Plan 0013214 and Lot 6, Block 7, Plan 0112357 which lie inside the access rights-of-way as shown on plan 0113492.

[10] The Respondent also provided a computer generated overhead map demonstrating that the above noted access rights-of-way affect only a portion of the subject property along the southeast boundary. The Respondent argued that the – 25% allowance applied to the base land rate adequately reflects the impact of the mutual access easement agreement and results in a reasonable estimate of market value.

[11] The Respondent further argued that this matter is differentiated from the 2010 assessment complaint outlined in ARB 0534/2010-P, as the Respondent in that instance did not counter the position taken by the Complainant.

Decision:

[12] The Board finds that the market value of the subject property is not a nominal value as a result of the mutual access easement agreement registered on the Land Title Certificate.

[13] The Board further finds that the -25% adjustment applied to the base land rate is reasonable in relation to the affected area of the subject property as shown on Plan 0113492.

[14] The Board was not persuaded by the Complainant's argument that the mutual access easement agreement results in no plausible development potential for the parcel and therefore the parcel would have only a nominal value. The Respondent's evidence of the location of the rights-of-ways clearly indicates that only a portion of the subject property is affected and not the entire parcel as argued by the Complainant.

[15] The Board also notes that there was no market evidence submitted, to refute the base land rate of \$350,000 per acre nor to refute the – 25% adjustment to the base rate provided by the Respondent.

The assessment is **CONFIRMED** at: **\$205,500.**

DATED AT THE CITY OF CALGARY THIS

17

DAY OF AUGUST, 2012.



J. Krysa,
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant's Submission (63 pages)
2. R1	Respondent's Submission (25 pages)

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 ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Vacant Land	Land Value	Encumbrances