

-REVISED-

**CALGARY
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, Section 460, Revised Statutes of Alberta 2000 (the Act).

Between

Altus Group Limited, representing Calgary Salvage Disposal Ltd., COMPLAINANT

And

The City Of Calgary, RESPONDENT

Before

***M. Chilibeck, PRESIDING OFFICER
P. McKenna, MEMBER
B. Jerchel, 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: 078002797

LOCATION ADDRESS: 2004 ALYTH CO SE

HEARING NUMBER: 66365

ASSESSMENT: \$1,400,000

[1] This complaint was heard by the Composite Assessment Review Board on 3rd day of July, 2012 at the office of the Assessment Review Board located in Boardroom 4 on Floor Number 4 at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

R. Worthington

Appeared on behalf of the Respondent:

R.T. Luchak

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

Jurisdiction

[2] Neither party raised any objections to a member of the Board hearing the subject complaint.

Procedural

[3] The Complainant raised a procedural matter pertaining to the Respondent's evidence submission. It was alleged by the Complainant that the Respondent's evidence submission was received late, that is, it was received at 1:05AM on the day following the due date. The Complainant drew the Board's attention to two CARB decisions, 1839/2011P and 1367/2011P, in support of his request to the Board to not accept the Respondent's evidence submission because it was not disclosed according to section 8(2)(b) of the Matters Relating to Assessment Complaints Regulation (MRAC). The Complainant asserted these two decisions ruled against him (because of late filing by the Complainant in other matters) and argued that the Respondent's late filing should be dealt with similarly.

[4] The Respondent advised that he was experiencing computer software problems when submitting his evidence electronically to the Calgary Assessment Review Board (ARB) and the Complainant and that is probably why they were noted as being received early on the day after the due date.

[5] The Board found that the Respondent's evidence disclosure is marked "LATE" by the ARB clerk. When questioned by the Board, the Complainant advised that an attempt to contact the ARB and the Complainant was not made. The Board is also persuaded by the two CARB decisions to not hear any evidence from the Respondent as these decisions dealt with a similar matter that ruled against the Complainant. The MRAC states that "the respondent must, at least 14 days before the hearing date" disclose their evidence. The Board finds this to mean that any time prior to the 14th day before the hearing date the Respondent must disclose their evidence. By submitting on the 13th day, the Respondent took a risk in meeting the requirements for disclosure.

[6] The Board decided that the Respondent's evidence submission will not be accepted and marked as an exhibit, that is, the Board will not hear any evidence from the Respondent because it has not been disclosed in accordance with section 8 of MRAC.

Property Description:

[7] The subject is a vacant parcel of land that contains 2.68 acres located at the corner of 19th Avenue and Alyth Court in the Alyth/Bonnybrook Industrial subdivision in the SE quadrant of The City of Calgary. It is categorized as being located in Non Residential Zone (NRZ) AL1 for assessment purposes and the Land Use Guideline (LUG) is IG (Industrial General).

Issues:

[8] The Complainant identified the matters of an assessment amount and assessment classification on the Assessment Review Board Complaint (complaint form) and attached a list outlining several reasons for the complaint. At the hearing the Complainant addressed the assessment amount as under complaint and the Board summarized the issues as follows:

1. Should the subject assessment be reduced by 25% to recognize its shape?
2. Should the subject assessment be reduced by a further 25% to recognize the limited/restricted access to the parcel?

Complainant's Requested Value: \$703,500.

Board's Findings in Respect of Each Issue:

[9] The subject property is valued by the market sales comparison method whereby the 2.68 acres is valued at \$525,000 per acre. There are no negative influences recognized in the assessment.

[10] The subject parcel is in the shape of a trapezoid with one acute angle. It has frontage onto Alyth Court on the southwest boundary and 19th Avenue on the northwest boundary.

[11] Access to the subject parcel and area can be made via 19th Avenue from 15th Street and Blackfoot Trail or 15th Street and 9th Avenue.

[12] The Complainant calculated the requested change in the assessment using the land rate of \$525,000 per acre and adjusting for two negative influences, shape at 25% and limited access at 25% for a requested value of \$703,500.

1) Shape

[13] The subject parcel which contains 2.68 acres of land has an irregular shape (not a square or a rectangle). The Complainant asserted that the subject warrants a shape adjustment because of its irregular shape and the Respondent has applied similar adjustments for irregular shaped parcels throughout the City where warranted.

[14] The Respondent's evidentiary disclosure was not accepted by the Board because it was decided that it was submitted late. In summary, he asserted that the parcel could be developed to a typical level without any shape issues because of the nature of the shape and the size and area.

[15] The Board was not provided with sufficient information as to how the shape of the subject would restrict the development of the parcel and how the utility is impeded considering its size of 2.68 acres. The Subject has significant frontage on two of its boundaries and the Board is of the opinion the significant size of the subject mitigates the effect of the acute angle of the parcel's shape. The Board is not persuaded to reduce the assessment because there is a dearth of information.

2) Restricted Access

[16] The Complainant argued that access to the subject parcel is affected negatively by the limited access to the area, impeded by the railway tracks that cross 15th Street and by the quality of the road infrastructure in the area of the subject. There are two access points to the area that are not considered ideal for industrial transportation, one is the access point from the north via Ninth Avenue and 15th Street that requires crossing railway tracks and the other is from the east via Blackfoot Trail and Alyth Road. The railway crossing on 15th Street hampers the access when long trains occupy the tracks that cross 15th Street or when a train occupies the track for a long period of time. The road infrastructure does not include typical asphalt pavement, curbs, gutter and sidewalks. The pavement is of inferior quality and some of the roads are gravelled and rough.

[17] The Complainant also argued that the subject should be reduced when compared to land in the area to the southwest of the subject, referred to as the Portland area. This area has several access points and the quality of the roads is superior to the subject. Despite this, the land in both areas is assessed at \$525,000 per acre.

[18] CARB decision 1120-2011P regarding the subject property was referenced by the Complainant who asserted that the circumstances have not changed since the decision was made and therefore the decision should be the same for the 2012 complaint.

[19] The Respondent contended that the subject is not hindered by limited or restricted access. There is access to the area and the subject by way of Blackfoot Trail and 15th Street, Blackfoot Trail and Alyth Rd and Ninth Avenue and 15th Street.

[20] The Board finds the maps and aerial photos show that the access to the subject property and area is not limited. The maps show that the primary access is to be at Blackfoot Trail and 15th Street and the secondary access point is to be via Ninth Avenue and 15th Street. The Board finds the third access point at Blackfoot Trail and Alyth Road could also be used to access the subject. As to the quality of the access or physical condition and characteristics of the infrastructure, the Board notes the differences between the subject and the Portland Street area; however the Complainant did not provide any information, such as property sales, as to what effect this would have on the value of the subject. Also the Complainant did not quantify the adjustment amount nor provide any other supporting evidence.

Board's Decision:

[21] The Board confirms the assessment at \$1,400,000.

DATED AT THE CITY OF CALGARY THIS 8 DAY OF August 2012.

A handwritten signature in cursive script, appearing to read 'M. Chilibeck', is written over a horizontal line.

M. Chilibeck
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. C2	Complainant's disclosure - Appendix

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.*

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Decision No. 046-0731-2012P			Roll No. 078002797	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Warehouse	Warehouse Single Tenant	Cost/Sales Approach	Land Value