

**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:

1397130 Alberta Ltd (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

D. Pollard, MEMBER

B. Bickford, 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:	092037803
LOCATION ADDRESS:	4949 BARLOW TR SE
HEARING NUMBER:	67118
ASSESSMENT:	\$11,760,000

This complaint was heard on the 21st day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- Mr. J. Weber (Altus Group Limited)

Appeared on behalf of the Respondent:

- Mr. J. Young (City of Calgary)

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

There were no concerns with the Board as constituted.

There were no preliminary matters. The merit hearing proceeded.

Property Description:

The subject property, commonly referred to as the Road King Truck Stop is a 16.06 acre improved parcel, located in the Valleyfield Community in SE Calgary. The subject is assessed using the cost approach utilizing 2012 Rates for Commercial Land Values for the land component and the Marshall & Swift Valuation calculator for the improvement.

Issues:

The Assessment Review Board Complaint Form contained 11 grounds for appeal with the most applicable ground being: "The assessment of the subject property is in excess of its market value for assessment purposes".

Complainant's Requested Value: \$7,523,000 (Complaint Form)
\$7,495,000 (Based on TASP)
\$9,430,000 (Based on Land Adjustment)

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

Issue Is there a loss in value as a result of the restrictive covenants imposed by the utility right of ways?

The Complainant's Disclosure is labelled C-1.

The Complainant submitted that the subject property suffers from a loss in value due to restrictive caveats associated with utility right of ways that are registered on title. The utility right of ways are located on the north, east and west boundaries of the site as shown on page 9.

The Complainant, at page 17 and following, provided a purported equity comparable located at 8815 52 ST SE noting that a previous Board (ARB 1243-2010-P) had determined that "an adjustment should be made to reflect a utility right of way that affects 0.65 acres of the two parcels to 10% of their market value". The adjustment was further supported by the sale of the comparable as described by RealNet where on page 26 it reads "Our discussions with representatives of the vendor have indicated that this transaction was a land exchange. Discussions have also indicated that 0.65 acres of the total site was considered to be encumbered land and sold for 10% of its market value..." The Board has no such detailed information before it for the subject Complaint.

The Complainant, at page 38 and following provided another purported equity comparable located at 8280 BLACKFOOT TR SE. A map of the property shows the site is dissected by numerous utility right of ways. A previous Board (ARB 0637/2010-P) determined that "when coupled with the significant reduction for negative influences the subject property should not exceed the values set in 2009." The Board finds this comparable is significantly different than the subject.

The Respondent's Disclosure is labelled R-1.

The Respondent advised the assessment is prepared using the cost approach to value because the subject is considered atypical.

The Respondent, at page 14, provided a copy of a proposed plan of subdivision dated March 28, 2012, purported to be in its final approval stages, to support its argument that there is no loss in value as a result of the presence of utility right of ways on the subject property.

The Board finds the Complainant has failed to show how the treatment of the two purported comparables relates directly to the subject.

Issue: What is the market value of the subject for assessment purposes?

The Complainant, at page 11 provided an extract from an Alberta Data Search report wherein a Sale, dated August 12, 2008 was reported for the subject at \$9,175,000. The Complainant, at page 12 provided a table entitled Non-Residential Sales, June 2008 – June 2011 noting that two sales of industrial warehouses in August of 2008 had negative time adjustments of 18.3 % applied to arrive at their time adjusted sale price (TASP). The Complainant then applied the negative time adjustment (18.3%) to the reported sale price (\$9,175,000) and requested an assessment of \$7,495,000.

The Complainant, at page 14, provided an untitled chart on City of Calgary letterhead which showed a number of "Influences" and "Adjustments". The Complainant argued the subject assessment should be reduced by 25% to reflect either "Land Use Restrictions" or "Limited Access" and requested an assessment of \$9,431,085, as an alternative.

The Respondent, at page 49, provided a copy of a 2010 listing for the subject noting that the asking price was \$14,000,000. The Respondent noted the listing included significant non real estate items. The Board places no weight on this evidence.

The Board finds the sale dated August 12, 2008 for \$9,175,000 is the best indicator of market value for this somewhat unusual property and that there is insufficient evidence before the Board to support the requested time adjustment.

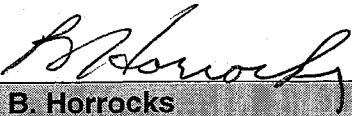
Board's Decision:

The 2012 assessment is reduced to \$9,175,000.

Reasons:

The sale of this "special use" property is the best indicator of market value.

DATED AT THE CITY OF CALGARY THIS 10th DAY OF July 2012.


B. Horrocks
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 Administrative Use

Subject	Property type	Property sub type	Issue	Sub-Issue
CARB	Other	Specialty Property	Cost Approach	Market value

