

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

**Costco Wholesale Canada Ltd. c/o Finances Dept. #543  
(as represented by Altus Group Ltd.), COMPLAINANT**

and

**The City Of Calgary, RESPONDENT**

before:

**J. Krysa, PRESIDING OFFICER  
P. Grace, MEMBER  
R. Kodak, MEMBER**

These are complaints to the Calgary Assessment Review Board in respect of the property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>049010002</b>	<b>049010119</b>
<b>LOCATION ADDRESS:</b>	<b>2875 29 St NE</b>	<b>2851 29 St NE</b>
<b>HEARING NUMBER:</b>	<b>66870</b>	<b>66872</b>
<b>ASSESSMENT:</b>	<b>\$1,090,000</b>	<b>\$423,000</b>

The complaints were heard on June 20, 2012, in Boardroom 5 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- K. Fong

Appeared on behalf of the Respondent:

- E. D'Altorio

**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 properties are two adjacent, individually titled parcels of land, improved with asphalt paving and used as parking lots in conjunction with an adjacent retail (big box) store. The parcel sizes and land use designations are as follows:

ROLL NUMBER:	049010002	049010119
LOCATION ADDRESS:	2875 29 St NE	2851 29 St NE
LAND USE DESIGNATION:	Commercial - Regional 1	Industrial - General
PARCEL SIZE:	49,190 Sq.Ft. (1.13 Ac.)	23,035 Sq.Ft. (0.53 Ac.)

**Issues:**

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

3. an assessment amount
4. an assessment class

[4] However, at the hearing the Complainant led evidence and argument only in relation to matter number 3 (an assessment amount) for both properties. The Complainant set out 5 grounds for the complaints in section 5 of the complaint forms with a requested assessment value of \$750 for each of the properties; however, at the hearing only the following issues were in dispute before the Board:

**Issue 1:** Are the subject properties required to satisfy the parking requirements of the Complainant's adjacent retail store?

**Issue 2:** If the subject properties are required to satisfy the parking requirements of the Complainant's adjacent retail store, should the assessments reflect a nominal value?

**Complainant's Requested Values:**

[5] The Complainant requested the following assessment values:

ROLL NUMBER:	049010002	049010119
LOCATION ADDRESS:	2875 29 St NE	2851 29 St NE
REQUESTED ASSESSMENT:	\$1,000	\$1,000

**Board's Decision in Respect of the Issues:**

**Issue 1:** Are the subject properties required to satisfy the parking requirements of the Complainant's adjacent retail store?

[6] The Complainant argued that the subject properties are required to satisfy the parking requirements of the Complainant's adjacent retail store pursuant to section 18 of the City of Calgary Land Use Bylaw 2P80, under which the original development permit was granted. As such, the properties cannot be sold independently of the adjacent retail store and therefore should be assessed at a nominal value of \$1,000 each. Further, the Complainant submitted that as the assessment of the adjacent retail store has been prepared using the income approach to value, the value of all lands required for parking would be effectively included in the net rent rate coefficient applied to the retail store, and to assess the subject properties at their market value would effectively lead to double taxation.

[7] In support of the required parking argument the Complainant provided an existing site plan of the development dated October 21, 2004, and setting out the following parking related details:

<u>Building Details</u>		<u>Parking Data</u>	
Existing Building Area	132,627 S.F.	10' Wide Stalls	474
Existing Tire Centre	5,184 S.F.	9' Wide Stalls	206
Total Existing Building	<b>137,811 S.F.</b>	Handicap Stalls	10
		Total Parking Stalls	<b>690</b>

Effective Parking Density: 5.0 Stalls per 1,000 S.F. of Building Area

[8] The Complainant further provided an excerpt of section 18 of the municipality's Land Use Bylaw 2P80, and argued that the parking requirements at the time of development equated to 5.5 parking stalls per 93 metres (approximately 1,000 S.F.) of net floor area, as set out at subsection 2 - Retail stores (iii), and equivalent to a Neighbourhood centre at (i). The Complainant submitted that the actual effective density of 5.0 parking stalls per 1,000 sq.ft. was likely the result of a "relaxing" of the parking requirements by the municipality, although the Complainant conceded there was no evidence to confirm this before the Board.

[9] In support of the requested nominal assessment of \$1,000.00, the Complainant also provided the assessments of 36 properties used as parking lots in conjunction with adjacent properties, and each assessed at total values of \$750.00, \$800.00 or \$1,000.00. The Complainant further submitted that the Municipal Government Board reduced the subject's 2008 assessments to a nominal amount of \$750 each.

[10] The Respondent argued that the subject properties are no longer required to satisfy the parking requirements of the Complainant's adjacent retail store, and can no longer be included in a "required parking" calculation. The Respondent submitted that as a result of a 2008 development permit for an addition to the store, DP2008-0642, the Complainant's adjacent retail store is now subject to the parking requirements set out in the municipality's Land Use Bylaw 1P2007, and not Land Use Bylaw 2P80, under which the Complainant's adjacent retail store was originally developed.

[11] In support of the argument, the Respondent provided a copy of a document entitled, "Motor Vehicle Parking Bylaw Check" for the Complainant's adjacent retail store, indicating the 557 parking stalls located on the site of the store meet the parking requirements set out in Land Use Bylaw 1P2007, with an indicated surplus of 35 parking stalls on site. The document further indicates that Land Use Bylaw 1P2007 does not allow for "off-site parking" to be included in a required parking calculation if it is not on the same parcel as the development.

[12] In response, the Complainant did not dispute the updated parking requirements of 4 parking stalls per 1,000 sq.ft. of retail improvement area set out in Land Use Bylaw 1P2007, but argued that the parking requirements of Land Use Bylaw 2P80 would still apply to a development, approved pursuant to that bylaw.

#### Decision: Issue 1

[13] The Board finds that the subject properties are not required to satisfy the parking requirements of the Complainant's adjacent retail store.

[14] The Board finds the Respondent's documentary evidence of a recent parking bylaw check, dated February 10, 2009, to be compelling evidence that the Complainant's adjacent retail store is subject to the parking requirements set out in Bylaw 1P2007, and not those in Land Use Bylaw 2P80 under which the original development permit was approved. Accordingly, the Board finds that the 557 parking stalls on the site of the Complainant's adjacent retail store meet the current parking requirements of that site, as set out in the document.

#### Issue 2

[15] Whereas the Board finds that the subject properties are not required to satisfy the parking requirements of the Complainant's adjacent retail store, issue 2 was not addressed by the Board.

The assessments are **confirmed** as follows:

ROLL NUMBER:	049010002	049010119
LOCATION ADDRESS:	2875 29 St NE	2851 29 St NE
HEARING NUMBER:	66870	66872
ASSESSMENT:	\$1,090,000	\$423,000

DATED AT THE CITY OF CALGARY THIS

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DAY OF JULY, 2012.

  
J. Krysa, Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1 (Roll 049010002)	Complainant's Submission (428 pages)
2. C1 (Roll 049010119)	Complainant's Submission (428 pages)
3. R1 (Roll 049010002)	Respondent's Submission (34 pages)
4. R1 (Roll 049010119)	Respondent's Submission (34 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**

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Other	Vacant Land	Land Value (Nominal)	Parking